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APPEARANCES:

SHAW, PERELSON, MAY & LAMBERT, LLP
Attorneys for Tuxedo UFSD Board of Education
21 Van Wagner Road
Poughkeepsie, New York 12603

BY: DAVID S. SHAW, ESQ.

LITTMAN KROOKS LLP
Attorneys for Respondent Dorothy Ziegelbauer
399 Knollwood Road
White Plains, New York 10603

BY: MARION M. WALSH. Esq.

ALSO PRESENT:

MATTHEW TAKEUCHI, Clerk Pro Tem (as noted)
The Public

TUXEDO UFSD BOARD OF EDUCATION:

DAN CASTRICONE, President
LUCY CERESO SCULLY, Vice President
JOE RICKARD
ALYSSA HORNEFF
GARY HEAVNER
WILLIAM GIVENS
DOROTHY ZIEGELBAUER

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(Board of Education meeting called to order and roll taken by Matthew Takeuchi.)

(Board votes for Executive Session.)

EXECUTIVE SESSION

THE HEARING OFFICER: We're going on the record now. My name is Carol Hoffman. I've been appointed by the Board to serve as hearing officer to conduct this hearing. We had a hearing on October 15, from 10:15 a.m., to 2:33 p.m. We did not conclude the matters before us and we chose today as the first day that we could all get together to continue the hearing. So we'll now resume our hearing.

That being said the hearing is in Executive Session. It is not open to the public, and we would ask anyone who is not involved either on the board or as a witness called by Counsel Walsh or Counsel Shaw to please remove themselves at this time.

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MS. WALSH: And just on behalf of respondent, we do have an objection to not allowing public comment because it does impede my client's rights as well as the General Public Act does. So we respectfully disagree and reserve rights on that.

THE HEARING OFFICER: Your rights are reserved. Your objection is noted.

Now people not involved in the hearing please leave.

(The public exit the hearing room.)

(The following takes place in Executive Session:)

THE HEARING OFFICER: Good morning, everybody. So I'm --

MR. GIVENS: We are not quite clear.

THE HEARING OFFICER: We're not?

MR. GIVENS: We're not quite clear.

(Mr. Matthew Takeuchi leaves the room.)

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THE HEARING OFFICER: So we're back on the record. Now we remember the rule we set last time. This is a hearing that's being conducted for removal procedure, et cetera. There is no recording of this proceeding, except the verbatim transcript that our very talented and special transcriber here is not going to miss a word that anyone says.

So, on the last day of hearing, the District rested its case, its primary case, and we were about to begin the respondent's case and ran out of time because of a very important school event, which I understand went well, which is great.

And now, Ms. Walsh, we are ready for the presentation of your case.

MS. WALSH: Thank you. My first witness will be Mr. Kenneth Ziegelbauer.

THE HEARING OFFICER: Mr. Kenneth Ziegelbauer. Is he present?

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MS. WALSH: He is. He has just stepped outside.

Do you want me to go get him?

THE HEARING OFFICER: Well, somebody's got to.

(Discussion off record.)

(Kenneth Ziegelbauer is called as a witness and takes the stand.)

THE HEARING OFFICER: So, Mr. Ziegelbauer, you're going to take --

MR. ZIEGELBAUER: I'm going to get some water, if you don't mind.

THE HEARING OFFICER: Oh, yes, of course. Let me know when you're ready.

MS. WALSH: Just so you know what it is, I'm going to show you this document --

THE HEARING OFFICER: Ms. Walsh, I'd like to swear in the witness before we do anything.

MS. WALSH: Okay.

THE HEARING OFFICER; Mr.

1 Kenneth Ziegelbauer - Direct
2 Ziegelbauer, would you raise your right
3 hand.

4 Do you swear to tell the truth,
5 the whole truth, and nothing but the
6 truth with respect to the testimony
7 you're about to give this morning?

8 THE WITNESS: Yes, I do.

9 THE HEARING OFFICER: Thank you
10 very much.

11 The witness is sworn, Ms. Walsh.

12 WHEREUPON,

13 KENNETH ZIEGELBAUER,
14 called as a witness herein, duly
15 sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MS. WALSH:

18 Q. Mr. Ziegelbauer, thank you for being
19 here today, and the Board had just asked,
20 everybody just asked me, are you fully vaccinated?

21 A. Yes, I am.

22 Q. Thank you. Could you spell your name
23 for the record, please.

24 A. Kenneth, K-e-n-n-e-t-h, Ziegelbauer,
25 Z-i-e-g-e-l-b-a-u-e-r.

1 Kenneth Ziegelbauer - Direct

2 Q. And do you have any relationship to
3 anyone, to any board member?

4 A. I am the husband of Dorothy
5 Ziegelbauer, proud husband of Dorothy Ziegelbauer.

6 Q. And can you just tell us a little bit
7 about your educational background?

8 A. I'm a graduate of Manhattan College
9 of Engineering and NYU.

10 Q. And how long have you been living in
11 Tuxedo?

12 A. 2008-2009.

13 Q. And do you have children in the
14 district?

15 A. Yes, ma'am. I have one student.

16 Q. Now, Mr. Ziegelbauer, I believe you
17 are familiar with the charges filed against
18 Mrs. Ziegelbauer?

19 A. To the extent that I know, yes.

20 Q. Okay. And there was, I believe,
21 there was a statement you wanted to make today?

22 A. Yes.

23 Q. Would you please let me know what you
24 wanted to say to the Board.

25 MR. SHAW: I'm going to object

1 Kenneth Ziegelbauer - Direct
2 to the statement.

3 THE HEARING OFFICER: I'm going
4 to sustain.

5 MR. SHAW: I think the witness
6 should be questioned.

7 THE HEARING OFFICER: I'm going
8 to sustain an objection to any
9 statements.

10 MS. WALSH: Okay.

11 THE HEARING OFFICER: Direct
12 examination, you are free to question
13 him and then he can give you a
14 statement.

15 BY MS. WALSH:

16 Q. Could you please tell me about your
17 concerns, any concerns you have about the charges?
18 And I'll direct you to the exhibits, okay?

19 MR. SHAW: I'm going to object
20 to his assessment of the charges,
21 whether they're good, bad or otherwise.
22 He can be a fact witness regarding the
23 charges but no more than that.

24 THE HEARING OFFICER: Ms. Walsh,
25 Mr. Shaw is correct. This is direct

1 Kenneth Ziegelbauer - Direct
2 testimony, you are free to question
3 this witness and then he'll give
4 answers.

5 He's not here to give an opening
6 statement; that's the role of counsel.
7 He's not here to judge the charges;
8 that will be a decision by the Board
9 and ultimately the Commissioner.

10 MS. WALSH: Respectfully, I do
11 note that there should have been a
12 public comment session here, and
13 Mr. Ziegelbauer should be entitled to,
14 as my witness, voice his opinions and
15 his thoughts on the matter. I will be
16 asking him questions, but I do note
17 that.

18 BY MS. WALSH:

19 Q. So, Mr. Ziegelbauer, let me turn your
20 attention to the charges, if you don't mind. If
21 you could look at Parent Exhibit B in the binder.

22 A. B?

23 Q. B, as in boy. Have you seen these
24 charges before?

25 A. Yes, ma'am.

1 Kenneth Ziegelbauer - Direct

2 Q. When did you first see them?

3 A. Uh, they were put on the front of our
4 door.

5 Q. Okay. And do you remember the date
6 on that, when they were put on?

7 A. Um, not directly, no.

8 Q. And was there any -- do you recall
9 coming upon the charges at your door or when they
10 were posted there?

11 A. Yeah. I didn't personally, but they
12 were -- I guess Dorothy picked them up. We were
13 involved in supporting our daughter at that time.

14 Q. And was there anything related that
15 happened -- related to your daughter's situation
16 in the district on the same day as the charges?

17 MR. SHAW: Objection, relevance.

18 THE HEARING OFFICER: I'll allow
19 the question.

20 A. Yeah, there were hearings regarding
21 her district-supported services or supplied
22 services.

23 Q. And what concerns, if any, do you
24 have as a parent about your district and your
25 daughter's services?

1 Kenneth Ziegelbauer - Direct

2 MR. SHAW: Objection,
3 relevance --

4 THE HEARING OFFICER: Okay.

5 Q. -- as related to this board matter?

6 A. Absolutely related.

7 Q. It's related to the board matter.

8 THE HEARING OFFICER: Well,
9 that's a judgment that will be made not
10 by you, not by Mr. Shaw, not by this
11 witness.

12 So you can ask him a question
13 relative to why we're here, which is
14 the board charges. So be careful about
15 conflating the youngster's hearing with
16 the Board hearing.

17 MS. WALSH: I understand.

18 That's what I asked him, what concerns
19 he had related --

20 Q. Related to the Board charges, what
21 concerns, if any, do you have about your daughter
22 and services?

23 MR. SHAW: I'm going to object.

24 It's too far afield. The charges are
25 very specific about incidents, events,

1 Kenneth Ziegelbauer - Direct
2 and that's what his testimony should
3 address, not beyond.

4 THE HEARING OFFICER: Do you
5 want to be heard on that objection?

6 MS. WALSH: Yes. We do have
7 claims, as you know, of retaliation and
8 we have concerns about release of
9 confidentiality and we have concerns
10 about the Board charges being
11 retaliation for certain advocacy
12 statements.

13 THE HEARING OFFICER: All right.
14 Having heard both counsel, I'll allow
15 the question. I'd like the witness to
16 try to be as tight and specific as
17 possible to the question that's asked
18 and if we go too far afield, then we
19 will have to reign it in. Ms. Walsh,
20 that's where we are.

21 MS. WALSH: Thank you.

22 I'm sorry. Do you want to --
23 would you read back the question?

24 A. Well, it was related to these two
25 charges. Charge No. 2, which is a confidential

1 Kenneth Ziegelbauer - Direct
2 report prepared by Board-appointed investigator.
3 I haven't seen that report but I do understand
4 that it relates directly to activities related to
5 my child. It must contain information that is
6 directly related to her situation within this
7 school district.

8 THE HEARING OFFICER: All right.
9 Now, Mr. Ziegelbauer, I'm going to ask
10 you not to speculate about what
11 something must contain. This is all
12 about what knowledge you have, what
13 eyewitness you are to any events and
14 not about what you may surmise or
15 speculate.

16 THE WITNESS: Mm-hmm.

17 THE HEARING OFFICER: Is there
18 another question, Ms. Walsh?

19 MS. WALSH: Well, that was the
20 one charge.

21 BY MS. WALSH:

22 Q. What about the other?

23 A. The Charge No. 1? Hitting Reply All?

24 Q. Right.

25 THE HEARING OFFICER: What is

1 Kenneth Ziegelbauer - Direct

2 the question you're asking him?

3 MS. WALSH: No. I asked him if
4 he had concerns about his daughter's
5 services related to the charges in
6 general, and he had talked about Charge
7 2 so I asked with Charge No. 1.

8 A. There's a direct relationship between
9 Charge 1 and my daughter.

10 Q. And you stated you had never seen the
11 report in question. Have you ever seen a copy?
12 Has your wife, Mrs. Ziegelbauer, ever shared it
13 with you?

14 A. No. It's confidential, just like my
15 daughter's records should be confidential.

16 MR. SHAW: I'm going to object
17 to that answer. It's beyond the scope
18 of the question. It's informing his
19 knowledge as to the nature of documents
20 that he hasn't seen.

21 THE HEARING OFFICER: I'm going
22 to overrule that. The question has
23 been answered, so I will leave the
24 record alone and continue.

25 If you have another question,

1 Kenneth Ziegelbauer - Direct

2 Ms. Walsh.

3 Q. Mr. Ziegelbauer, as to the charge of
4 official misconduct, No. 2, regarding the alleged
5 breach of confidential personally identified
6 student information --

7 THE HEARING OFFICER: Ms. Walsh,
8 before you go any further, this witness
9 is not here to talk about the charges,
10 as to whether or not they're valid,
11 whether or not they should be proved.
12 These are fact witnesses which you have
13 made plain quite often already in this
14 hearing. So fact witnesses, you'll ask
15 them a question about do they know this
16 or that or can you tell us about this
17 or that but not give us all your
18 concerns on the charges as to what this
19 entire hearing is about. It's too
20 open-ended. It's too speculative, and
21 it's not his place to be making those
22 kinds of judgments or conclusions.

23 He's a fact witness. You can
24 ask him what he knows, what he sees,
25 what he experienced but not what his

1 Kenneth Ziegelbauer - Direct
2 impression is of what we're here.

3 MS. WALSH: That wasn't my
4 question.

5 THE HEARING OFFICER: That's not
6 within his domain.

7 MS. WALSH: That wasn't my
8 question. I didn't finish the
9 question. So, yes, I understand that,
10 but by the same token, his factual
11 statements on any retaliation, any
12 impact are still relevant.

13 THE HEARING OFFICER: Well, we
14 haven't gotten to any facts yet except
15 that he hasn't seen the report. So
16 let's try to find out what facts we can
17 get from this witness.

18 BY MS. WALSH:

19 Q. Mr. Ziegelbauer, how have you in your
20 experience as the father of your daughter seen
21 factually any impact based on these charges and
22 based on what happened on July 8th?

23 MR. SHAW: Objection, relevance.

24 THE HEARING OFFICER: Sustained.

25 It's not about the impact on the

1 Kenneth Ziegelbauer - Direct
2 household. We know that when someone's
3 brought up on charges, there's an
4 impact on the household.

5 Your question was what was the
6 impact on your daughter when the
7 charges were brought. That's not why
8 we're here.

9 MS. WALSH: It's a retaliation
10 issue, and there's an impact --

11 THE HEARING OFFICER: But the
12 retaliation issue is not going to be
13 addressed by talking about how his
14 daughter reacted.

15 MS. WALSH: But that wasn't
16 my -- that wasn't my question, how he
17 reacted. It was on the impact on any
18 services and any placement.

19 THE HEARING OFFICER: No, that
20 wasn't the question, with all due
21 respect, but if you want to ask a fresh
22 question, we can analyze that.

23 BY MS. WALSH:

24 Q. What impact, if any, did the events
25 of July 8th have upon your daughter's services and

1 Kenneth Ziegelbauer - Direct
2 placement, if any? Your perceptions.

3 MR. SHAW: I'm going to object.
4 We have no foundation as to what the
5 transaction was on July 8th and how
6 that relates to either of these two
7 charges.

8 THE HEARING OFFICER: That's why
9 I was giving you leeway, Ms. Walsh, to
10 talk about the day the charges were
11 served and where he was and that sort
12 of factual information, but in terms of
13 the impact on his family or his
14 daughter's services, he's not here to
15 make that connection. We are.

16 MS. WALSH: Well, he was not in
17 the executive session so --

18 THE HEARING OFFICER: We are.

19 MS. WALSH: Okay.

20 BY MS. WALSH:

21 Q. Mr. Ziegelbauer, we have in the
22 complaint, in the petitioner's complaint we have
23 made claims of retaliation, that these charges are
24 retaliatory, and from your perspective and as a
25 parent of your child, do you believe there is any

1 Kenneth Ziegelbauer - Direct
2 retaliation?

3 MR. SHAW: I'm going to object.
4 Counsel is making reference to a
5 petition that's not part of these
6 proceedings. There are proceedings
7 before the Commissioner of Education
8 where these issues are present.
9 They've been responded to
10 preliminarily. There will be a formal
11 answer within the timeframe established
12 by the Commissioner's office.

13 This hearing should relate
14 solely to these charges and whether or
15 not the facts that are educed at this
16 hearing rise to the level for which a
17 board member should be removed pursuant
18 to the standards in Section 1709
19 paragraph 18 of the Education Law.

20 THE HEARING OFFICER: Ms. Walsh,
21 would you like to be heard on that?

22 MS. WALSH: Yes. This is all
23 related. The retaliation claims were
24 not just in the Commissioner's hearing.
25 They were in letters to both you and to

1 Kenneth Ziegelbauer - Direct
2 Mr. Shaw at numerous times, and if you
3 want to make this simpler, you could
4 allow the parent to read the statement
5 that he had wanted to read and then we
6 could move on to the next witness.

7 But without allowing him to be
8 heard, it's -- I can't ask him
9 questions about Executive Session
10 because he wasn't there, but I can ask
11 him about the impact. And it is
12 relevant to this proceeding because it
13 is relevant to retaliation.

14 MR. SHAW: We would suggest that
15 if you wanted to conduct an in-camera
16 review of the statement --

17 THE HEARING OFFICER: Well, I
18 was going there, but I don't know if
19 that's even necessary. But I would be
20 willing to do that, if counsel both
21 wanted me to.

22 MS. WALSH: What?

23 THE HEARING OFFICER: Review the
24 document you have in camera and make a
25 decision there, and that would be in

1 Kenneth Ziegelbauer - Direct
2 lieu of his testimony.

3 MS. WALSH: Or admit it as a
4 exhibit, if you prefer.

5 Yes, you could take it for an
6 in-camera review.

7 MR. SHAW: We object to it as an
8 exhibit. We're okay with in-camera
9 review.

10 MS. WALSH: You have it. I
11 don't have it.

12 You have the statement. Would
13 you provide it the hearing officer.

14 THE WITNESS: Sure. Gladly.

15 THE HEARING OFFICER: Thank you.

16 You can put on the record that
17 the hearing officer has been provided
18 the document for an in-camera
19 inspection. In-camera inspection means
20 I get to see it and you all don't for
21 now.

22 So give me a few minutes.

23 (Pause in proceedings)

24 THE HEARING OFFICER: All right.
25 I'd like to see counsel for a moment.

1 Kenneth Ziegelbauer - Direct

2 (Discussion off record outside
3 the hearing room)

4 THE HEARING OFFICER: All right.
5 We're back on the record. I'd like the
6 record to reflect that a
7 three-page document was submitted to me
8 and I was requested to review it in
9 camera, it's dated November 4, and it
10 is essentially a statement, an opening
11 statement, if you will, in a hearing
12 perhaps, but in this case it is a
13 statement by the spouse of the board
14 member who is the subject of the
15 charges. It addresses personal
16 impressions and it is completely
17 irrelevant and inappropriate as a
18 document in the hearing.

19 Mr. Ziegelbauer is free to
20 distribute this to any board member or
21 any other persons that he wishes to
22 distribute it to but not in the context
23 of this hearing. It's not a hearing
24 exhibit and it's essentially a position
25 paper on his perceptions of what's

1 Proceedings

2 going on. So we are disallowing it as
3 an exhibit.

4 I'll be returning it to
5 Mr. Ziegelbauer, and I understand from
6 Ms. Walsh, that other than that, this
7 witness can be excused.

8 MS. WALSH: Right. We do object
9 to not including it, however, we do
10 understand and you can return that to
11 Mr. Ziegelbauer.

12 THE WITNESS: Thank you.

13 MS. WALSH: You are finished,
14 Mr. Ziegelbauer.

15 THE HEARING OFFICER: Thank you,
16 Mr. Ziegelbauer.

17 THE WITNESS: Thank you.

18 (Kenneth Ziegelbauer is excused
19 as a witness and leaves the stand.)

20 MS. WALSH: The next witness
21 will be --

22 MR. HEAVNER: Can I ask a point
23 of information question?

24 THE HEARING OFFICER: Yes.

25 MR. HEAVNER: Are all

1 Proceedings

2 witnesses --

3 MS. WALSH: Are we on the
4 record?

5 THE HEARING OFFICER: Okay.
6 Hold on. Yes, we're on the record.

7 THE COURT REPORTER: Who is
8 this?

9 MR. HEAVNER: Gary Heavner.

10 THE HEARING OFFICER: Yes,
11 please announce yourself at first, who
12 you are, for the reporter.

13 MR. HEAVNER: Sure. Are
14 witnesses from the witness stand
15 allowed to testi- -- allowed to go
16 public and talk in public about what
17 they testified to, at least that part
18 of the Executive Session?

19 THE HEARING OFFICER: No.

20 And, Mr. Ziegelbauer, we'll just
21 ask you to be careful not to disclose
22 what has occurred in the proceedings.
23 That's separate and apart from whether
24 you decide to distribute your statement
25 to anyone, okay?

1 Proceedings

2 THE WITNESS: Understood.

3 THE HEARING OFFICER: Thank you
4 very much.

5 THE WITNESS: Thank you.

6 THE HEARING OFFICER: Now we can
7 go off the record.

8 (Kenneth Ziegelbauer leaves the
9 hearing room.)

10 (Discussion off record.)

11 THE HEARING OFFICER: Now
12 we can continue with your next
13 witness.

14 MS. WALSH: Thank you. Mr. Joe
15 Rickard.

16 (Joseph Rickard is called as a
17 witness and takes the stand.)

18 THE HEARING OFFICER: We can go
19 off the record.

20 (Discussion off record.)

21 THE HEARING OFFICER: So we have
22 Mr. Rickard. Is that how you say it?

23 MR. RICKARD: Yes.

24 THE HEARING OFFICER: All
25 righty, Trustee Rickard, you're going

1 Joseph Rickard - Direct
2 to be the next witness. So would you
3 raise your right hand.

4 Do you swear to tell the truth
5 and the whole truth and nothing but the
6 truth with respect to the testimony
7 you're about to give today?

8 THE WITNESS: I do.

9 THE HEARING OFFICER: Okay.

10 He's sworn, he's your witness.

11 WHEREUPON,

12 JOSEPH RICKARD,
13 called as a witness herein, having
14 been first duly sworn, is examined
15 and testifies as follows:

16 DIRECT EXAMINATION

17 BY MS. WALSH:

18 Q. Mr. Rickard, thank you so much for
19 coming here today and for serving on the Board and
20 dedicating your time.

21 How long have you served on the Board
22 of Education in Tuxedo?

23 A. Uh, this is my second year.

24 Q. And could you just tell me a little
25 bit about your background. I believe you have a

1 Joseph Rickard - Direct
2 BA in history from Queens College; is that right?
3 A. Yes, I have a BA in economics and
4 history from Queens College, and I have an MBA
5 from Hofstra University. I have an MS degree from
6 St. John's and I have postgraduate work at Stony
7 Brook University.
8 Q. And I understand you are a former
9 US history teacher?
10 A. That's correct.
11 Q. And how long did you teach history?
12 A. Four years.
13 Q. Four years. And what kind of school
14 did you teach in?
15 A. It was a private school in Long
16 Island.
17 Q. Okay. What was the school in Long
18 Island?
19 A. St. Mary's.
20 Q. Okay.
21 A. In Manhasset.
22 Q. And what is your current -- do you
23 have a current position and employment?
24 A. Yes, I have consulting company or
25 more of an agency that does training, corporate

1 Joseph Rickard - Direct
2 training. We also do in the last couple of years
3 vocational resources for STEM schools, vocational
4 schools and prisons throughout the United States.

5 Q. And you mentioned this is your second
6 year on the Board?

7 A. Correct.

8 Q. How long have you known
9 Mrs. Ziegelbauer, Trustee Ziegelbauer?

10 A. I knew her 'cause she's on the Board,
11 but I didn't know her, I mean, outside of just
12 running into her. Um, so I would say I knew her
13 from because she was on the Board but I didn't
14 know her from any other -- I didn't have any
15 personal relationships or knowledge of her.

16 I've gotten to know her since I've
17 been on the board, though.

18 Q. And you would agree there were no
19 charges before this proceeding against
20 Mrs. Ziegelbauer, correct?

21 A. No, no.

22 Q. And you served with her on the Board
23 when she was board president, correct?

24 A. Correct.

25 Q. And how would characterize, at least

1 Joseph Rickard - Direct
2 from your experience on the board, Trustee
3 Ziegelbauer's years of service on the board?

4 MR. SHAW: I'm just going to
5 object to this testimony. It's beyond
6 the scope of this charges. He can be a
7 fact witness regarding what happened in
8 these events, but no more than that.

9 THE HEARING OFFICER: I think
10 it's fairly preliminary, so I'll allow
11 It. Let's keep it tight and try to
12 focus on the charges.

13 MS. WALSH: Okay. I just have
14 two questions.

15 Q. I'm sorry, you --

16 A. I voted for her to be the president.
17 It was kind of a compromise between two other
18 candidates that the Board was split on.

19 I thought she was serious. I knew
20 she worked hard at it. She's very detail
21 oriented, particularly when we went through the
22 COVID piece. She was very, very diligent, kept
23 everybody on track. She's a good listener. She's
24 open-minded. She has strong opinions. I don't
25 agree with her on everything. In fact, we just

1 Joseph Rickard - Direct
2 had a disagreement on the gym a few minutes ago.
3 So -- but I thought she was very serious and very
4 dedicated and committed to the school and the
5 district.

6 Q. Isn't it true that 2020-21 year was a
7 particularly challenging time to be a board
8 member?

9 MR. SHAW: Objection.

10 MS. WALSH: This is the only
11 question I have.

12 THE HEARING OFFICER: All right.
13 The question would be, did you find
14 2020-21 to be a challenging year? Do
15 you want to ask him that?

16 MS. WALSH: Yes. I mean, I'm
17 asking leading because he's adverse, I
18 mean, theoretically adverse, but yes, I
19 can ask him that as well.

20 THE HEARING OFFICER: There's
21 been nothing evident that would
22 indicate to me that this witness is
23 hostile.

24 MS. WALSH: No, no.

25 THE HEARING OFFICER: And I

1 Joseph Rickard - Direct
2 understand hostile witness as a term of
3 art but you're still conducting a
4 direct and --

5 MS. WALSH: We can ask that
6 question.

7 THE HEARING OFFICER: This
8 question is not objectionable because
9 it's leading.

10 MS. WALSH: No.

11 THE HEARING OFFICER: It's
12 objectionable because it's irrelevant.

13 MS. WALSH: No. It's just
14 when -- my understanding is when --
15 well, let me -- this will be relevant
16 for the other wit- -- for all of the
17 testimony because I am, as
18 necessarily -- as a respondent who is
19 questioning an opposing party in this,
20 there is necessarily going to be a
21 deposing adverse relationship.

22 THE HEARING OFFICER: I
23 understand, and I'm allowing leeway
24 with that. I'm just trying to move the
25 hearing along.

1 Joseph Rickard - Direct

2 MS. WALSH: So, yes. So if you
3 could just read back the question, or I
4 can just ask it.

5 BY MS. WALSH:

6 Q. Did you find 2021 -- was it a
7 challenging year?

8 A. It was a very, very challenge year.

9 Q. And can you describe some of the
10 challenges, if any, that Mrs. Ziegelbauer, Trustee
11 Ziegelbauer faced?

12 MR. SHAW: I'm going to object
13 to this testimony. There's no
14 foundation laid as to how challenging
15 circumstances might have led this
16 witness to the conduct in which she's
17 charged.

18 MS. WALSH: I have an objection
19 to that statement, and that is not what
20 the point is because there's no -- that
21 was not -- there's no allegation that
22 that has occurred.

23 THE HEARING OFFICER: Well,
24 Ms. Walsh, the lack of foundation is
25 the reason that we have a comment that

1 Joseph Rickard - Direct
2 includes an inquiry here.

3 MS. WALSH: No. My statement --

4 THE HEARING OFFICER: What can
5 this witness offer with respect to the
6 charges that have been brought against
7 Ms. Ziegelbauer? There are two
8 charges. So he's a witness to talk
9 about that. He's a board member, this
10 is his second year. His first year was
11 during COVID. His experience of it is
12 his experience of it. It was
13 challenging for everyone in the world
14 as well as board members.

15 BY MS. WALSH:

16 Q. You had testified, Mr. Rickard, that
17 you had seen that Mrs. Ziegelbauer worked very
18 hard as a board member and was professional and
19 you had stated she was a -- you had voted for her.

20 What did you see, if anything, in
21 '20-21 of her leadership during that year and
22 what, if anything, was different?

23 A. She took an active role in the Audit
24 Committee. We had some serious issues. We had a
25 bond that was defeated the previous year. We had

1 Joseph Rickard - Direct
2 a bus proposition that was defeated.

3 So she worked hard on the Audit
4 Committee to make some improvements. We got our
5 buses out to us, which we did through a lot of
6 hard work, and Dorothy took the effort and got
7 involved with all the contracts which was kind of
8 detailed.

9 We had the COVID piece, which was a
10 killer, very, very difficult, and she was -- her
11 and another person really got inside, very
12 detailed, what was in the document that we used to
13 run the -- how we were going to operate within
14 COVID at a level that was really amazing. You
15 know, really a lot of effort that was put into it,
16 certainly greater than I put in.

17 We also had a very unpopular when I
18 got on the Board, superintendent, that parents,
19 teachers and board members were not pleased with,
20 and it was a source of contention amongst the
21 Board. We had a very split board, on many votes
22 it was 4-3, so that's challenging, trying to come
23 to consensus and gaining agreement on very, very
24 important issues.

25 Then we had -- our superintendent

1 Joseph Rickard - Direct
2 made -- did something on the web that was
3 inappropriate on a Twitter site. So we literally
4 had to remove him within a couple days, working
5 with our attorney. Then we had a very, very
6 contentious search for the new superintendent.
7 The Board was in- -- the Board-elect was
8 incredibly split. It was very heated and very
9 passionate. So that made it difficult. There was
10 a lot going on during this year.

11 And then, to further complicate it,
12 there was charges against Mr. Castricone, which
13 was also a split in the board, that he was
14 releasing confidential information during the
15 process that we were trying to, you know, make --
16 get the new, you know, the new superintendent.

17 So all in all, um, I can't imagine a
18 year any tougher than what we had in the past
19 year.

20 Q. And during that year, did you have
21 any concerns about Trustee Ziegelbauer's ability
22 to fulfill her oath of office on the board or
23 fulfill her official duties?

24 A. No.

25 Q. Trustee Rickard, have you

1 Joseph Rickard - Direct
2 participated in the mandated Board of Education
3 training for trustees?

4 A. Yes.

5 Q. And do you recall when you did that?

6 A. I think it was in September, but I
7 could be wrong.

8 Q. Okay. And do you recall, did the
9 training cover information on the New York State
10 Commissioner's or the Board's ability to remove
11 board members? Do you remember?

12 A. No. We've had discussions with it
13 when Dan was under investigation or before he was
14 under investigation about what that process would
15 be in pretty great detail, and then when Dorothy's
16 situation came up, our attorney gave us, you know,
17 what the deal was, what the specifics were.

18 Q. Did you find the training helpful,
19 the Board of Education training?

20 A. Um, yeah. It was -- I thought that
21 it was very narrow in scope, yeah, but I did.

22 Q. Now, Mr. Rickard, you mentioned, to
23 follow up, during your board tenure there were
24 charges brought against another board member?

25 A. Correct.

1 Joseph Rickard - Direct

2 MR. SHAW: I'm going to object
3 to testimony about that. If there were
4 charges, the charges were not brought
5 forward to hearing, so what's the point
6 of having an exploration of that?

7 MS. WALSH: This goes to --

8 THE HEARING OFFICER: Ms. Walsh?

9 MS. WALSH: This goes to the
10 essence of the our claim of
11 retaliation. To not hear this would be
12 precluding the parents right to
13 question and have a fair hearing. To
14 not hear this argument would preclude
15 the parent's clear right to due process
16 and a fair hearing.

17 THE HEARING OFFICER: All right.
18 I'm going to overrule the objection and
19 allow the question. Again, keep it
20 tight, if you can, Ms. Walsh about what
21 we're here for, which is these two
22 charges.

23 BY MS. WALSH:

24 Q. So I had just asked, you mentioned
25 that during tenure there were other charges

1 Joseph Rickard - Direct
2 brought against a board member, and if you recall,
3 what were the charges?

4 A. There were two charges. One release
5 of confidential --

6 MR. SHAW: I'm going to make a
7 further objection about charges. Even
8 though this hearing isn't held in
9 public, there may be a time when the
10 transcript of these proceedings would
11 be within the public domain, and to
12 that extent, this can only be
13 prejudicial and for no purpose. The
14 issue regarding retaliation motive has
15 been placed before the Commissioner.
16 That should be the forum where it's
17 decided.

18 It's already a fact that the
19 Commissioner has allowed these
20 proceedings to go forward. So we would
21 very strenuously object to an
22 exploration of charges against another
23 board member that did not give rise to
24 a proceeding and a finding of facts
25 regarding those charges. We can't let

1 Joseph Rickard - Direct
2 hang out in the air and possibly for
3 public review allegations that were not
4 considered to be significant enough for
5 the Board to go forward with a hearing.
6 This becomes in a sense slanderous with
7 the protection of this hearing.

8 THE HEARING OFFICER: Were the
9 charges approved in public?

10 MS. WALSH: Yes. There's a
11 public document.

12 MR. SHAW: No.

13 MR. CASTRICONE: I would like to
14 speak on this.

15 MS. WALSH: There is a public
16 document, a resolution on June 18th,
17 which is Exhibit A.

18 MR. SHAW: There is nothing in
19 the public domain that identifies the
20 board member the subject matter of the
21 charges. It's completely antiseptic
22 for the reasons that should prevail,
23 which is that you really don't want a
24 factual exploration until there's a
25 finding of fact.

1 Joseph Rickard - Direct

2 MS. WALSH: I would -- first of
3 all, the hearing officer has already
4 overruled the first objection, and
5 there is a public document which should
6 be in evidence, which is Respondent A,
7 and we can redact anything we want from
8 this exhibit. This is a confidential
9 executive session hearing. Nothing is
10 going to be public.

11 THE HEARING OFFICER: What are
12 you referring to, Respondent's A?

13 MS. WALSH: Respondent A. And
14 then there's A2, as well, does identify
15 the individual. However, that can be
16 redacted.

17 MR. SHAW: Can we take a moment
18 off the record to review.

19 THE HEARING OFFICER: Yes,
20 please. We can go off the record.

21 (Discussion off record.)

22 THE HEARING OFFICER:
23 Let's go back to the last
24 question.

25 (Record read as follows:

1 Joseph Rickard - Direct

2 "Question: So I just had
3 asked, you mentioned that during
4 tenure there were other charges
5 brought against a board member,
6 and if you recall, what were the
7 charges?")

8 MR. SHAW: I am again going to
9 object to that. Those proceedings have
10 been resolved with nondisclosure and
11 also releases back and forth between
12 board member and the Board and the
13 District.

14 THE HEARING OFFICER: Off the
15 record.

16 (Discussion off record.)

17 THE HEARING OFFICER: We're back
18 on the record.

19 We have had a caucus regarding a
20 mistake that occurred on the first day
21 of hearing. The hearing officer but
22 not the school district was given a
23 document dated June 18 as Exhibit R-A,
24 and that is a mistake and will be
25 removed from the record. Ms. Walsh, is

1 Joseph Rickard - Direct
2 that correct?

3 MS. WALSH: That's correct. I
4 apologize for that error.

5 (Respondent's Exhibit A,
6 Special Meeting Agenda dated June 18,
7 2021 previously marked on 10/15/21 is
8 withdrawn, as of this date.)

9 THE HEARING OFFICER: Ms. Walsh
10 acknowledges that that document was not
11 intended to be Exhibit R-A.

12 The document that was
13 intended to be R-A and was given to
14 school district counsel, Mr. Shaw, has
15 a document of one page dated
16 September 24, 2021, special meeting
17 agenda, and it is the resolution
18 appointing me to serve as hearing
19 officer to conduct this hearing.

20 MS. WALSH: I respectfully note
21 that unfortunately in the transcript,
22 it does say that Exhibit D was the
23 special meeting dated 9/24. That is
24 where there was confusion in the
25 transcript of the hearing record from

1 Joseph Rickard - Direct
2 October 15th. So I'm just noting that
3 there was an error with --

4 THE HEARING OFFICER: Let me
5 finish before you interrupt, okay?

6 So back on this issue, the R-A
7 that was presented and marked has been
8 removed. It is now deleted from the
9 record. And the R-A dated
10 September 24, 2021 is the exhibit that
11 will go forward as the marked exhibit
12 for this hearing.

13 The June 18th document is not in
14 evidence in any capacity.

15 (Respondent's Exhibit A,
16 Special Meeting Agenda dated
17 September 24, 2021 is marked and
18 received in evidence, as of this date.)

19 MS. WALSH: So we have to
20 correct the hearing record.

21 THE HEARING OFFICER: Excuse me,
22 Ms. Walsh? I can't hear you. I hear
23 you saying things in the middle of my
24 presentation here. I'm trying to
25 clarify the record, not obfuscate it.

1 Joseph Rickard - Direct

2 MS. WALSH: If you look at the
3 transcript from the last hearing on --
4 from October 15 on page 47, it does
5 list as Exhibit D the Special Meeting
6 Agenda dated 9/24.

7 THE HEARING OFFICER: So that
8 needs to be corrected also.

9 MS. WALSH: That needs to be
10 corrected.

11 THE HEARING OFFICER: You got
12 that?

13 THE COURT REPORTER: Yes.

14 THE HEARING OFFICER: Okay.
15 Thank you.

16 THE HEARING OFFICER: All right.
17 Now, with respect to whether or not
18 this hearing is going to delve into the
19 charges, any other charges, my ruling
20 is that it will not, that what happened
21 in that hearing is outside the
22 purview -- what happened with those
23 charges is outside the purview of this
24 hearing for the reason that, as
25 Mr. Shaw indicated, there was no

1 Joseph Rickard - Direct
2 finding of fact, there's nothing in the
3 public space that clarifies whether
4 charges were brought, whether they were
5 withdrawn, whether they were withdrawn
6 with prejudice, whether they were
7 withdrawn with promises of
8 confidentiality, so they're outside the
9 purview of this hearing.

10 Now, if in the context of the
11 testimony of any of your witnesses, or
12 Ms. Ziegelbauer in particular, chooses
13 to talk about her perception of why she
14 was brought up on charges, we will have
15 to deal with that at that time, but
16 we're not taking exhibits relative to a
17 set of charges that were never brought
18 forward, were never tried, were never
19 given due process and were apparently
20 resolved with terms that are not even
21 before me. Am I clear?

22 MS. WALSH: And we do
23 respectfully object to that and do
24 think at least the June 18th Special
25 Meeting Agenda, which is confidential

1 Joseph Rickard - Direct
2 and which is in a public document,
3 should be admitted as Exhibit D, as in
4 David.

5 MR. SHAW: We disagree, we think
6 they're irrelevant to these
7 proceedings.

8 THE HEARING OFFICER: Exhibit D,
9 where are you, Ms. Walsh?

10 MS. WALSH: No. That was what
11 was the prior exhibit on the transcript
12 as -- it's not an exhibit right now.
13 It was marked as --

14 THE HEARING OFFICER: What are
15 you talking about with Exhibit D?

16 MS. WALSH: I said I would ask
17 to admit this, the document on
18 June 18th that you had marked as
19 Exhibit A, inadvertently, and have it
20 marked as Exhibit D.

21 THE HEARING OFFICER: I marked
22 it because it was given to me as the
23 exhibit.

24 We are really getting far afield
25 here, but you want to go into

1 Joseph Rickard - Direct
2 Exhibit D, Special Meeting Agenda,
3 Exhibit D. So you had it as A and D?

4 MS. WALSH: That was the
5 mistake. It was a mistake; that's what
6 I'm saying.

7 THE HEARING OFFICER: It's in
8 for ID only and it is not being
9 received in evidence.

10 MS. WALSH: We will reserve
11 rights on that.

12 THE HEARING OFFICER: You
13 reserve rights on that and it will be
14 ID only over objection, Counsel.

15 (Respondent's Exhibit D,
16 Special Meeting Agenda dated
17 September 24, 2021, previously marked on
18 10/15/21 is withdrawn, as of this
19 date.)

20 (Respondent Exhibit D, 6/18/21
21 Special Meeting Agenda, is marked for
22 identification, as of this date.)

23 MS. WALSH: This goes to the
24 essence of parents' argument about
25 these charges, to the Respondent's, to

1 Joseph Rickard - Direct
2 Mrs. Ziegelbauer's arguments about the
3 charges, and to preclude any discussion
4 about that we think is prejudicial in
5 this hearing.

6 MR. SHAW: And we disagree. We
7 think this matter is before the
8 Commissioner. Your charge is to assist
9 the Board in the determination of the
10 two charges before the body today.

11 MS. WALSH: The Commissioner is
12 deciding and will decide if --

13 THE HEARING OFFICER: And the
14 two of you can stop arguing with one
15 another, because I've already issued my
16 ruling.

17 MS. WALSH: For the record, the
18 copy of the agreement, the settlement
19 agreement was requested and never
20 received.

21 MR. SHAW: Well, we're way
22 beyond the record right now. Can we
23 get back to the hearing?

24 THE HEARING OFFICER: Yes.

25 MS. WALSH: So, Mr. Rickard, I'm

1 Joseph Rickard - Direct
2 going to let you move on.

3 THE WITNESS: Why don't we let
4 this guy go through.

5 MS. WALSH: Okay.

6 THE HEARING OFFICER: All right.
7 So let's have your next question.

8 BY MS. WALSH:

9 Q. Mr. Rickard, if you could, for the
10 email, as to Charge No. 1, if you could take a
11 look at --

12 MR. SHAW: I'm going to object
13 to the witness having a looseleaf open.

14 MS. WALSH: Oh, yes.

15 A. Okay. I never looked at it. Sorry.

16 Q. That's okay.

17 If you could look at the document
18 that was admitted, I believe, as -- I just want to
19 make sure, as Respondent Exhibit B, as in boy,
20 which is the charges against Trustee Ziegelbauer.

21 A. Let's see. Okay. Yeah, I remember
22 it.

23 THE HEARING OFFICER: It looks
24 like, Mr. Rickard.

25 THE WITNESS: Oh, this one,

1 Joseph Rickard - Direct
2 right?

3 THE HEARING OFFICER: Yes.

4 THE WITNESS: Okay.

5 Q. Now, as to Charge No. 1, it's an
6 August 9th, 2021 email. This is the center of the
7 first charge. Did you receive that email, if you
8 recall, the August 9th email?

9 A. Yes, I received it.

10 Q. And I just want to turn your
11 attention now to what's -- I believe it's ID'd as
12 Exhibit F. It's not admitted or maybe it is
13 admitted, the August 9th correspondence with
14 Mrs. Ziegelbauer.

15 A. It's from Mrs. Ziegelbauer to
16 Mr. Castricone?

17 Q. Yes.

18 A. I got it.

19 Q. And if you could turn your attention
20 to page 3 of that exhibit.

21 MR. SHAW: I'm --

22 THE HEARING OFFICER: This is
23 not in evidence.

24 MR. SHAW: No.

25 THE HEARING OFFICER: But why

1 Joseph Rickard - Direct
2 don't you ask him questions about the
3 event. What does he remember about
4 this rather than focusing on this.
5 It's not in evidence.

6 MS. WALSH: Do you have a copy
7 of that?

8 THE HEARING OFFICER: R-F?

9 MS. WALSH: It's in there. I
10 can give you a copy.

11 THE HEARING OFFICER: Well, I
12 have several pages here.

13 MS. WALSH: It should be in
14 evidence. It was marked.

15 MR. CASTRICONE: Okay, but in
16 the meantime, Mr. Rickard is reading
17 what you say isn't in evidence.

18 THE HEARING OFFICER: Mr.
19 Castricone, I'm going to ask you not to
20 interrupt. If you have a comment you
21 need to make to counsel, you can ask to
22 speak to counsel, okay?

23 MR. SHAW: Could we request that
24 the witness be presented by counsel
25 with the document to look at --

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: Yes.

3 MR. SHAW: -- rather than have
4 the book there.

5 THE HEARING OFFICER: Yes.

6 THE WITNESS: Sorry.

7 THE HEARING OFFICER: Let's just
8 separate the book and have counsel, if
9 you need to come up here and take it
10 out of the book and give him something,
11 that's fine.

12 THE WITNESS: Maybe it's easier
13 if I went up there, do you think?

14 MS. WALSH: Not really. I'll go
15 there.

16 MR. SHAW: I have R-F as
17 identified only.

18 THE HEARING OFFICER: Exactly.
19 I do, too. She's trying to establish a
20 foundation to offer it, I believe.

21 MS. WALSH: And then, I'll say
22 you might as well look at, while we're
23 here. District 6 as well is the other
24 one that is admitted.

25 THE HEARING OFFICER: District

1 Joseph Rickard - Direct

2 6?

3 MR. SHAW: Could we have the
4 witness presented with exhibits from
5 the hearing officer's table rather than
6 counsel going through the looseleaf
7 binder.

8 MS. WALSH: That was just
9 suggested to me.

10 THE HEARING OFFICER: Well, no,
11 we just wanted to have you give him the
12 document, but at this point, we'd
13 better make sure we're dealing with a
14 document that the rest of us have as
15 well.

16 MR. SHAW: I understand R-F to
17 be a July 20, 2021 letter that is three
18 pages.

19 THE HEARING OFFICER: R-F? R-F?
20 No.

21 MR. SHAW: R-F. Mine is
22 July 20, 2021 confidential and
23 privileged --

24 THE HEARING OFFICER: No. I
25 have R-F as an August 10th --

1 Joseph Rickard - Direct

2 MS. WALSH: I was trying to put
3 them in a binder. This is ID'd, you
4 are right. So R-F is the --

5 THE HEARING OFFICER: We'll go
6 off the record.

7 (Discussion off record)

8 THE HEARING OFFICER: So, Mr.
9 Shaw, the document that you thought was
10 given to you as R-F is R-E.

11 MR. SHAW: Yes.

12 THE HEARING OFFICER: And that
13 is also ID only, not in evidence.

14 MR. SHAW: Right.

15 THE HEARING OFFICER: And then
16 there's an R-F, which is five pages,
17 dated on the first page as August 10.

18 Off the record.

19 (Discussion off record)

20 THE HEARING OFFICER: We're back
21 on the record after a discussion of the
22 exhibits, particularly the respondent's
23 exhibits. We seem to have some
24 confusion about Respondent's A or
25 whether there was an A2, et cetera.

1 Joseph Rickard - Direct

2 So for now, here's where we are.
3 Respondent's A is the resolution
4 appointing myself as hearing officer
5 for this matter. B is the charges. C
6 is the response to the charges. D, E
7 and F are documents that are for ID
8 only, and G is also not in evidence.

9 So we're going to wait until
10 later on in the hearing to address all
11 of those, except for the fact that we
12 have had discussion about D, E and F,
13 and it is my ruling that D and E will
14 not be admitted into evidence, D for
15 irrelevance and E for irrelevance. F
16 is acceptable. It is a position that
17 the charged party will be making on her
18 behalf in any event and testimony will
19 be allowed as to F.

20 So F is in evidence, D and E are
21 not. G is not but we haven't really
22 discussed it, today at least.

23 (Respondent's Exhibit G,
24 document addressing recusal demands
25 erroneously shown as marked and

1 Joseph Rickard - Direct
2 received in evidence on 10/15/21 is
3 marked for identification, as of this
4 date.)

5 THE HEARING OFFICER: So is
6 there a question pending for the
7 witness? If not, why don't we just
8 resume.

9 BY MS. WALSH:

10 Q. Mr. Rickard, I'm sorry about the
11 delays. Thank you for your patience.

12 So could you just please turn your
13 attention to Respondent Exhibit F, and if you
14 could look at page 3, please.

15 A. This is the one that's dated, this
16 one doesn't have -- I took this out of the book.

17 THE HEARING OFFICER: No. Let
18 me give you the hearing officer's.

19 Q. It's an email. It's --

20 THE HEARING OFFICER: We'll put
21 this by your way for now.

22 MR. SHAW: Good. Could all of
23 his documents be turned face down and
24 not referred to?

25 MS. WALSH: I just asked him to

1 Joseph Rickard - Direct
2 refer to them.

3 THE HEARING OFFICER: Yes. This
4 is going to be F.

5 THE WITNESS: Okay, got.

6 THE HEARING OFFICER: Okay?

7 THE WITNESS: Thank you.

8 THE HEARING OFFICER: Yes.

9 BY MS. WALSH:

10 Q. So this is, to clarify, an August --
11 it says August 10th at the top and it says from
12 Dorothy Ziegelbauer.

13 A. Yes.

14 Q. If you look at, first, page 3 of the
15 document?

16 A. I'm on what page?

17 Q. If you could look at page 3.

18 A. One, two, three.

19 MR. SHAW: Excuse me. Does the
20 witness have a five-page document?

21 THE HEARING OFFICER: I believe
22 he does. He has mine.

23 THE WITNESS: Yes, 4, 5.

24 MR. SHAW: Thank you.

25 THE WITNESS: Thank you, I

1 Joseph Rickard - Direct

2 appreciate that.

3 A. Okay.

4 Q. Do you see do at the bottom of the
5 email, it says August 9th, 12:53 from Cairenn
6 Broderick?

7 A. Yep.

8 Q. "Ladies and Gentlemen"?

9 Now, if you could look at -- now, let
10 me just ask you, before you get to that, do you
11 see the email, Monday August 9th, 2021, 2:44?

12 A. Yes.

13 Q. Now, is it fair to say this is the
14 email that is the center of the first charge?

15 MR. SHAW: I'm going to object
16 to that. I think that that conclusion
17 can be reached by the triers.

18 THE HEARING OFFICER: Sustained.

19 Q. Could you please -- do you see that
20 this, Trustee Ziegelbauer's email is responding to
21 a previous email, correct?

22 A. Yeah.

23 Q. Okay. And do you see the email at
24 the bottom of page 3 from Cairenn Broderick going
25 on to page 4?

1 Joseph Rickard - Direct

2 A. Right.

3 Q. And that email is from the
4 Superintendent, correct?

5 MR. SHAW: I'm going to object.
6 The document will speak for itself.
7 It's already admitted into evidence.

8 MS. WALSH: This is essential to
9 the case and you're going to hear
10 from...so it's not obvious.

11 THE HEARING OFFICER: You are
12 asking him if he sees something and he
13 said yes.

14 Q. When it says Jeff, that is from the
15 new Superintendent, his signature; is that right?

16 A. On the bottom, it's -- oh, yeah, yes.
17 Thanks, Jeff, yep.

18 Q. And the email itself notes that the
19 teachers union wishes to share its views on
20 the 9-period day; is that accurate?

21 MR. SHAW: Objection. The
22 document speaks for itself. The
23 witness --

24 THE HEARING OFFICER: Sustained.

25 Q. Does the email ask for a response?

1 Joseph Rickard - Direct

2 MR. SHAW: Objection, relevance.

3 THE HEARING OFFICER: Overruled.

4 Keep going.

5 A. Yeah, he says please confirm with me
6 that you can make it.

7 Q. And were you expected to reply to the
8 email?

9 A. Was I personally?

10 Q. Do you know if -- did you, did you
11 reply to the email?

12 A. No, I did not.

13 Q. Okay. But if you look at the email
14 above this, on page 3, do you see that Trustee
15 Ziegelbauer did reply to it?

16 A. Yes.

17 Q. Okay. And wasn't she replying, in
18 fact, looking at the bottom of page 3, from an
19 email from Cairenn Broderick?

20 A. Right.

21 Q. So, but when she wrote the note,
22 didn't she actually respond to Superintendent Jeff
23 White?

24 MR. SHAW: Objection, the
25 document speaks for itself.

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: Sustained.

3 A. Correct.

4 THE HEARING OFFICER: No.

5 THE WITNESS: Oh.

6 THE HEARING OFFICER: When the
7 objection is sustained, you don't
8 answer.

9 THE WITNESS: I'm sorry. I
10 apologize.

11 THE HEARING OFFICER: When
12 there's an objection, you hold back on
13 answering and wait for the ruling.

14 THE WITNESS: Sorry. I got
15 mixed up.

16 THE HEARING OFFICER: It's easy
17 to get mixed up, that is.

18 Q. Now if you could also take a look at
19 what you don't have right now, a document which is
20 in evidence, which is District 7.

21 THE HEARING OFFICER: Are you
22 going to give him the document or
23 should I?

24 MR. SHAW: Could the hearing
25 officer give him the document, please.

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: District

3 7. Hold on. Here's District 7. One
4 page.

5 BY MS. WALSH:

6 Q. Have you seen this document before?

7 A. Yes, mm-hmm.

8 Q. Okay. And, if you could look at the
9 third paragraph, and this is in reference to the
10 email sent by Jeff White on August 9th at 12:53.
11 If you could just read the first sentence of the
12 third paragraph, the email sent by Jeff White on
13 August 9th, 2021 --

14 A. Right.

15 Q. -- at 12:53, of behalf of Cairenn
16 Broderick of NYSUT indicates that there's a
17 delegation or federation between the two emails.

18 A. Correct.

19 Q. If you could look back at, please,
20 Respondent F, page 3.

21 A. Okay, yep.

22 Q. Do you see that the report is
23 referencing the email at the bottom of --

24 A. Right, right, yep.

25 MR. SHAW: Excuse me a second.

1 Joseph Rickard - Direct

2 Could we just read back the question,
3 the answer and then the comment.

4 THE HEARING OFFICER: Okay,
5 question, answer, and counsel's
6 comment.

7 (Record is read as follow:

8 Question: Do you see that the
9 report is referencing the email at the
10 bottom of --

11 "Answer: Right, right, yep.")

12 MR. SHAW: Objection. I don't
13 understand what report is being
14 referred to in this testimony right
15 now. The page 3 of Exhibit R-F is an
16 August 9th email and the report, which
17 is D-7, is from October of 2021. So I
18 don't see the connection between the
19 two. Could it be clarified?

20 THE HEARING OFFICER: Ms. Walsh,
21 can you clarify?

22 Q. So do you see on the report --

23 THE HEARING OFFICER: No.

24 Clarify for us.

25 MS. WALSH: Oh, yes. So the

1 Joseph Rickard - Direct

2 report --

3 THE HEARING OFFICER: What
4 report are you referring to when you
5 say "the report"?

6 MS. WALSH: The report is the
7 CSIG, which is District 7.

8 (Court reporter clarification.)

9 MR. SHAW: CSIG.

10 MS. WALSH: CSIG report, right.

11 THE HEARING OFFICER: District
12 7?

13 MS. WALSH: Yes.

14 THE HEARING OFFICER: Page?

15 MS. WALSH: So my question was,
16 to him, I read the email sent by -- do
17 you see the email sent by Jeff White on
18 August 9th, at 12:53, on behalf of
19 Cairinn Broderick of NYSUT indicates
20 there was a delegation or federation
21 between the two emails. And my
22 question to him was, did you understand
23 that this referred to the email at the
24 bottom of Respondent Exhibit F, page 3,
25 where it says, "On August 9th, 2021 at

1 Joseph Rickard - Direct
2 12:53," there was an email from Cairenn
3 Broderick? Did you --

4 THE WITNESS: Yes.

5 THE HEARING OFFICER: So you're
6 referring to that email as the report?

7 MS. WALSH: No, no. I was -- If
8 you look at the report --

9 MR. SHAW: We have no objection,
10 as I now understand it. The report is
11 referring to the email at page 3 of
12 R-F.

13 MS. WALSH: Right.

14 THE HEARING OFFICER: Okay. We
15 can continue.

16 BY MS. WALSH:

17 Q. So was it your understanding that,
18 from what this report says, based on the next
19 sentence, that there is -- he states there's a
20 delegation or federation between the emails?

21 A. Right.

22 Q. Do you know what those terms mean?

23 A. Yes.

24 Q. Okay.

25 A. I use it in my own company. It's a

1 Joseph Rickard - Direct
2 kind of peculiarity, this may be Google, I don't
3 know, but it's kind of a peculiarity when you do
4 that, 'cause it still retains the original email
5 address. I knew that at the time when this was
6 sent.

7 We had a discussion amongst the Board
8 about it. I probably did a lousy job explaining,
9 it was very heated, and so the charge stood. But
10 I did understand how this could happen when you --
11 and Jeff had told us before this that he was
12 giving her delegation, authority, whatever because
13 she needed an email to be able to communicate with
14 us a subsequent meeting, a meeting on the 9 plus
15 period, you know, how we set up the meetings. So
16 he said already told us or Krissy told us,
17 somebody told us that he had done that. So when I
18 saw that it, I assumed, you know, that's where the
19 mistake -- now it's still a mistake, but I
20 understood how it happened.

21 Q. And can you just tell me what you
22 explained to the Board again or is that -- about
23 the delegation relating to this?

24 A. What I tried to explain to the work
25 order is this is a very common problem when you do

1 Joseph Rickard - Direct

2 this, but it was very heated at the time, so I
3 was -- and I did a lousy job. I apologize.

4 Q. And I'm just asking if you could try
5 to do it now when it's not heated, just try --

6 A. Well, what happens when you delegate
7 authority, it retains sometimes -- not sometimes.
8 It retains the email address. In other words, it
9 could say Broderick -- she could send it through
10 our system but when you look at it, it says her
11 email, so but that way it's -- so in order for her
12 to communicate with us through our server, he gave
13 her the rights to send emails to set up that
14 meeting. And I just assumed that's what -- I
15 didn't have -- I didn't do an investigation, but I
16 just assumed that's what happened 'cause she said
17 Jeff. She didn't send it to the person she was
18 sending it to. She didn't sent it to Cairenn.

19 Q. And you --

20 A. So I made that assumption that that's
21 what has to happen. And then when I read this
22 report of investigation, I said, yeah, absolutely,
23 that's what happened.

24 Q. So when you said "she," you meant
25 Trustee Ziegelbauer, when she responded to Jeff,

1 Joseph Rickard - Direct
2 she was intending to respond to Jeff, the
3 Superintendent --

4 A. Right. But he had given her his
5 email address, which they had already told us they
6 were going to do at a previous meeting.

7 Q. Okay. So at the bottom, the email
8 August 9th, from Jeff, that was due to a
9 delegation, that he had given her --

10 A. Yes.

11 Q. Let me finish. --

12 -- he had given her --

13 A. Yes.

14 Q. -- permission to use his email?

15 (Court reporter interruption)

16 MR. SHAW: Objection, asked and
17 answered, at least twice.

18 THE HEARING OFFICER: Yes.

19 MS. WALSH: I don't think we got
20 it, though.

21 THE HEARING OFFICER: We're
22 done.

23 MR. SHAW: We got it.

24 Q. Did you hear the superintendent
25 testify about this, that he didn't know why his

1 Joseph Rickard - Direct
2 email was listed there -- why her email was listed
3 in the email?

4 A. Right, I did.

5 Q. Do you know why he would say he
6 didn't know why?

7 A. I don't -- I think that if he had
8 more time to think about it, he really could ask a
9 few questions, he probably would have answered a
10 little differently.

11 MR. SHAW: I'm going to object
12 to speculation about the operation of
13 Jeff White's mind.

14 THE HEARING OFFICER: Yes.

15 A. He knew he delegated it.

16 THE HEARING OFFICER: Mr.
17 Rickard, when there's an objection --

18 THE WITNESS: Sorry.

19 THE HEARING OFFICER: -- please
20 don't talk, and --

21 Q. Did the superintendent tell you that
22 he delegated the email to Ms. Broderick?

23 A. Yes.

24 MR. SHAW: Objection, asked and
25 answered.

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: Okay.

3 MS. WALSH: It wasn't asked and
4 answered because we --

5 THE HEARING OFFICER: Ms. Walsh,
6 the reporter has asked us not to talk
7 over one another, and these constant
8 interruptions, you know, all of us
9 speaking over one another are making it
10 difficult to create a record, and that
11 goes for the witness, too. You have to
12 wait.

13 THE WITNESS: Sorry.

14 THE HEARING OFFICER: There has
15 been an objection. I wasn't given an
16 opportunity to rule before you all
17 carried forward and the witness
18 answered. So I will say that this
19 question has been asked and answered
20 twice.

21 Why don't we start with a fresh
22 question and try, everybody, to listen
23 to the protocol. If there's an
24 objection, we all take a breath,
25 whichever counsel made the objection,

1 Joseph Rickard - Direct
2 the other has a right to respond, and
3 then they'll be a ruling before there's
4 an answer, okay?

5 (Continued on next page.)

6 BY MS. WALSH:

7 Q. And was it your understanding that
8 Ms. Broderick also gave her permission or did she
9 have to give permission also?

10 A. I don't know if she gave her
11 permission. Generally she has to accept it.

12 I'm not saying I knew this because of
13 this scenario, I just know it from my own
14 business.

15 THE HEARING OFFICER: I'm going
16 to ask the witness to try to answer the
17 question. The question was do you know
18 if she gave permission? I believe your
19 answer was no.

20 THE WITNESS: Right.

21 THE HEARING OFFICER: Is there
22 another question?

23 Q. Do you know if she accepted
24 permission?

25 A. That's what I don't know. I know it

1 Joseph Rickard - Direct
2 must have been submitted, but I just don't know
3 positively that she accepted it.

4 Q. Do you know if for a delegation to
5 occur she would have had to accept permission?

6 A. That's the my understanding, yes.

7 Q. Did you hear Ms. Broderick testify
8 that she did not give the District permission to
9 send emails?

10 A. Yes.

11 THE HEARING OFFICER: If you
12 recall?

13 A. Yes, I recall that. She was
14 surprised, yes.

15 Q. And do you have, in your knowledge as
16 a board trustee, any knowledge of why that is?

17 MR. SHAW: I'm going to object
18 to the relevance. What's relevant here
19 is an email was received and a response
20 was given, and how that response was
21 given is relevant.

22 THE HEARING OFFICER: Not just
23 relevance, but speculation. We're
24 asking him to speculate as to why
25 something happened. We're dealing with

1 Joseph Rickard - Direct
2 facts about what did happen, and I
3 believe he's explained what delegation
4 is and explained it here, explained it
5 to the Board. So let's see if we have
6 another question, a new question.

7 MS. WALSH: I mean this is
8 central to this --

9 THE HEARING OFFICER: What's the
10 question that you want him to answer?

11 MS. WALSH: I was
12 asking -- well, let me just move on to
13 the next question.

14 BY MS. WALSH:

15 Q. So when you explained this to the
16 board, was there any questions they had about it?

17 A. No. There was one comment saying
18 that Dorothy -- yes, it could happen but Dorothy
19 didn't say she was sorry she sent it, that was one
20 explanation or one comment, but there was no
21 really discussion of how -- why she would have
22 said "Jeff" when the thing was addressed to
23 somebody else. There really wasn't a deep
24 discussion of that, how that could actually
25 happen.

1 Joseph Rickard - Direct

2 I think there was one board member
3 who kind of leaned into it a little bit, but the
4 mood of the group was let's move on. We voted on
5 it and we went on to the next charge.

6 Q. So the Board had consensus that
7 despite what you explained as the delegation, this
8 was still intentional official misconduct?

9 A. Right.

10 Q. And if you could just look at the
11 beginning of District F, page 1?

12 A. This one here?

13 Q. That's the August 10th email.

14 A. The August 9th?

15 Q. I'm sorry, Respondent F, August 10th.

16 Did you receive her response in
17 Exhibit F from Dorothy?

18 A. Yes.

19 Q. And did you review it?

20 A. Yes. I did.

21 Q. Doesn't she say it was a mistake?

22 A. Yes.

23 Q. Okay. And doesn't she also say
24 again, on page 2, "That was not my intention"?

25 MR. SHAW: I am going to object.

1 Joseph Rickard - Direct

2 He's just repeating what's written in
3 the document.

4 THE HEARING OFFICER: I
5 understand.

6 Ms. Walsh, do you want to be
7 heard on the objection?

8 MS. WALSH: Yes. I think it's
9 important for our record to refer that
10 he said he reviewed it and it's
11 important to know what he understood
12 this to mean, and I'm going to ask him
13 more questions about it.

14 THE HEARING OFFICER: Well, I'm
15 going to sustain the objection. The
16 document speaks for itself.

17 BY MS. WALSH:

18 Q. Didn't Trustee Ziegelbauer explain
19 the circumstances OF this email, of how this had
20 happened?

21 A. Yes.

22 Q. Do you think she fully understood it
23 at this point, on the delegation and federation?

24 MR. SHAW: I'm going to object.
25 This is leading.

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: Yes, I
3 object, too. It's not only leading,
4 it's asking about the mind set of
5 Ms. Ziegelbauer. She will be able to
6 testify to that.

7 Q. Did you have any -- okay, I'll move
8 on.

9 Did you accept Mrs. Ziegelbauer's,
10 Trustee Ziegelbauer's explanation?

11 A. Yes.

12 Q. And why was that?

13 MR. SHAW: I'm going to object.
14 We don't know what that explanation
15 was.

16 THE HEARING OFFICER: Well,
17 we're talking about the explanation
18 that --

19 MS. WALSH: The explanation, I
20 was asking about --

21 THE HEARING OFFICER: Ms. Walsh,
22 I'm talking now and the reporter can't
23 get us both. It's very frustrating.

24 We have a document that speaks
25 for itself. The witness was asked

1 Joseph Rickard - Direct
2 whether he agreed with it, whether he
3 understood it, whether he accepted it.
4 He's answered that. What's next?

5 MS. WALSH: I asked him if he
6 accepted her explanation and he said --
7 and the explanation, Mr. Shaw's
8 objection was that we don't know what
9 the explanation is. The explanation is
10 here.

11 THE HEARING OFFICER: Yes.

12 MS. WALSH: And I'm asking him
13 why he accepted it. It's a reasonable
14 question.

15 THE HEARING OFFICER: All right.
16 Why did you accept it?

17 THE WITNESS: Because I felt I
18 understood how it could have happened,
19 and I read what she wrote and I
20 accepted her apology. It wasn't good,
21 but I accepted it. I understood why it
22 happened, and you know, and --

23 THE HEARING OFFICER: Thank you.

24 THE WITNESS: -- and how it
25 could have happened.

1 Joseph Rickard - Direct

2 BY MS. WALSH:

3 Q. And in your position in your job,
4 have you ever encountered employees and staff who
5 have inadvertently sent an incorrect email?

6 A. Many times.

7 Q. And were they terminated for that?

8 A. No.

9 Q. And how many times would you say, if
10 you can --

11 MR. SHAW: I'm going to object
12 to this line of questioning. We know
13 nothing about those inadvertent emails,
14 what the effect it was on the
15 enterprise. This is irrelevant.

16 THE HEARING OFFICER: I'm going
17 to sustain the objection. We have
18 already had the two questions that are
19 pertinent here and they have been asked
20 and answered.

21 Q. For Mrs. Ziegelbauer, do you think
22 this one email mistake was enough in addition to
23 the other charge for removing her from the Board?

24 MR. SHAW: Objection, that's a
25 decision ultimately for the Board as a

1 Joseph Rickard - Direct
2 whole and perhaps by the Commissioner
3 upon review.

4 THE HEARING OFFICER: Ms. Walsh,
5 are you wrapping up with this witness,
6 that's why you are asking him what he
7 thinks about this?

8 MS. WALSH: I'm moving on to
9 another section.

10 THE HEARING OFFICER: Okay.
11 Then move on.

12 MS. WALSH: Okay.

13 BY MS. WALSH:

14 Q. In the email that Trustee Ziegelbauer
15 wrote on Monday, August 9th --

16 A. Mm-hmm.

17 THE HEARING OFFICER: Which
18 exhibit are you referring to?

19 MS. WALSH: The same exhibit,
20 which is Respondent F?

21 A. I got it.

22 Q. Page 3. Do you see the caption of
23 the email. Had school officials met with Union
24 representatives prior to August 9th, do you know?

25 MR. SHAW: I'm going object to

1 Joseph Rickard - Direct
2 the relevance.

3 MS. WALSH: Because -- it's
4 relevant because this is a claim of
5 release of confidential information and
6 it's questionable how confidential --
7 in any event, it was a mistake, but how
8 confidential it actually was.

9 THE HEARING OFFICER: Wait.
10 I'll allow the question. Let's
11 continue.

12 MR. SHAW: Could the question be
13 restated?

14 THE HEARING OFFICER: In what
15 way?

16 MR. SHAW: If the question is
17 does he know if the district
18 representatives had met with the union
19 reps to tell them about a strategy on
20 the 8-period day, that would be
21 relevant. I didn't hear that being
22 questioned.

23 THE HEARING OFFICER: Any broad
24 brush meeting would not be. I
25 understand.

1 Joseph Rickard - Direct

2 Do you understand that

3 Ms. Walsh?

4 MS. WALSH: I'll start with
5 that's fine.

6 Q. So you can answer that question, if
7 you can, or do you want me to repeat it?

8 A. Yeah, can you repeat the question?

9 Q. So the question is, had school
10 officials, if you know, met on the 8-period day
11 option prior to this email?

12 THE HEARING OFFICER: With Union
13 reps.

14 MR. SHAW: Objection to the
15 relevance.

16 THE HEARING OFFICER: With Union
17 reps.

18 MR. SHAW: The issue in the
19 email is about a strategy regarding an
20 8-period day when the union was
21 inviting a meeting regarding its views
22 on the 9-period day, and the details of
23 what was revealed put the negotiations
24 in a very precarious situation.

25 MS. WALSH: Mr. Shaw is

1 Joseph Rickard - Direct
2 testifying now. I ask that that be
3 stricken from the record.

4 THE HEARING OFFICER: He's
5 trying to address your question here
6 and clarify because the restatement
7 that you just made did not accurately
8 reflect the qualification that we'd
9 agreed to. It's not just whether
10 they'd met with Union reps, it's
11 whether they met with Union reps about
12 the strategy of the 8-period day; is
13 that right?

14 MS. WALSH: If you could read
15 back Mr. Shaw's question that was
16 initially --

17 THE HEARING OFFICER: If we read
18 back Mr. Shaw's question and yours,
19 you'll see the difference. Is that
20 what you'd like to do.

21 MS. WALSH: Yes. Read back the
22 questions, that's fine.

23 (Record read as follows:

24 "Question: So the question is,
25 had school officials, if you know, met

1 Joseph Rickard - Direct
2 on the 8-period day option prior to
3 this email."

4 THE HEARING OFFICER: Now Mr.
5 Shaw's objection.

6 (Record read as follows:

7 "MR. SHAW: The issue in the
8 email is about a strategy regarding an
9 8-period day when the union was
10 inviting a meeting regarding its views
11 on the 9-period day, and the details of
12 what was revealed put the negotiations
13 in a very precarious situation."

14 THE HEARING OFFICER: Ms. Walsh
15 restated her question, which was not in
16 conformity with the request, that's
17 what we want to hear.

18 MS. WALSH: That wasn't a
19 question, though, that was his
20 statement.

21 Q. Let me ask you --

22 THE ARBITRATOR: Hold on,
23 Ms. Walsh. We have the reporter
24 looking for something.

25 You talked about 8-period day

1 Joseph Rickard - Direct
2 and he talked about strategy, so let's
3 go forward.

4 (Record read as follows:

5 "MR. SHAW: If the question is
6 does he know if the District
7 representatives had met with the Union
8 reps to tell them about a strategy on
9 the 8-period day, that would be
10 relevant. I didn't hear that being
11 questioned."

12 BY MS. WALSH:

13 Q. You heard it?

14 A. I did.

15 THE HEARING OFFICER: I'm sorry.
16 Is there a question?

17 MS. WALSH: That's going to be
18 the question.

19 THE HEARING OFFICER: What's
20 going to be the question?

21 THE WITNESS: What she just
22 read.

23 MS. WALSH: I'm acceding to
24 Mr. Shaw that that can be the question.

25 Could you read it? Could you

1 Joseph Rickard - Direct
2 read the question.

3 THE HEARING OFFICER: Yes. So
4 this will be so you hear it and then
5 Ms. Walsh is going to repeat it so it
6 gets in the record at the right place.

7 (Record is read as follows:

8 "MR. SHAW: If the question is,
9 does he know if the District
10 representatives had met with the Union
11 reps to tell them about a strategy on
12 the 8-period day, that would be
13 relevant. I didn't hear that being
14 questioned."

15 A. So I don't --

16 THE HEARING OFFICER: Well, hold
17 on please.

18 THE WITNESS: Sorry.

19 THE HEARING OFFICER: You're
20 going to repeat that for the record?

21 BY MS. WALSH:

22 Q. So did -- it's easier if you could
23 answer that without the pronouns because I don't
24 in a sense agree that that's the question, but I
25 will repeat it.

1 Joseph Rickard - Direct

2 Did you know if the Union and
3 District met on strategies on the 8-period day
4 before this email?

5 MR. SHAW: I'm going to object.

6 It's really did the Union know that the
7 District had a particular strategy
8 regarding the 8-period day when they
9 were inviting a meeting to describe
10 their interest in the 9-period day.

11 Q. If you know?

12 A. And the answer would be no.

13 Q. And was there a prior executive
14 section on negotiations before this?

15 A. Yes, there were multiple
16 conversations about this negotiation.

17 Q. Were there any, if you know, public
18 discussions about the 8- to 9-period day?

19 A. There was a discussion -- I brought
20 it up publicly about the 9-period day about what
21 issues we had with it. I did not bring up a
22 solution.

23 Q. And how long, if you know, had the
24 District been negotiating with the teachers union?

25 A. Well, before, January, February,

1 Joseph Rickard - Direct
2 March, I'd say April timeframe, maybe before that.
3 Ron Valenti was our consultant and with Mr. Shaw
4 leading the charge.

5 Q. And do you know how long the number
6 of periods in a day had been an issue in
7 negotiations?

8 A. Based upon my conversations with
9 Dr. Valenti, it was a discussion that was going on
10 right from the beginning.

11 Q. And do you know what the position of
12 the teachers union was?

13 A. They, um, they wanted to keep the
14 9-plus-period day in the contract. Um, the --
15 because of structure, the way we're structured as
16 a high school, to them it made the most sense to
17 accomplish, you know, what they were trying to
18 accomplish. But from their perspective, they felt
19 that was structurally the best way to accomplish
20 to get the teachers teaching and the students in
21 the classroom.

22 Q. And had that position been known for
23 months?

24 A. Yes.

25 MR. SHAW: Objection, relevance.

1 Joseph Rickard - Direct

2 MS. WALSH: Because it's --

3 MR. SHAW: You can't -- I'm
4 making an objection.

5 THE HEARING OFFICER: Go ahead.

6 MR. SHAW: You can't ask him a
7 question in the middle of my objection.

8 THE HEARING OFFICER: Right.

9 MS. WALSH: I wasn't. I was --

10 MR. SHAW: So my objection is
11 about the strategic issue at that point
12 in time.

13 THE HEARING OFFICER: Sustained.

14 BY MS. WALSH:

15 Q. And what was the District's position
16 on the 9-period day?

17 MR. SHAW: Objection.

18 A. We didn't have the --

19 MR. SHAW: Object relevance
20 right now.

21 THE HEARING OFFICER: Yes.

22 MS. WALSH: It goes to the
23 confidentiality of this email. If the
24 positions both have been known for
25 months, it's not a confidential email,

1 Joseph Rickard - Direct
2 even if the strategies haven't been --

3 THE HEARING OFFICER: Well,
4 there's a nuance here, Ms. Walsh and
5 none of us are missing it.

6 MS. WALSH: The strategy --

7 THE HEARING OFFICER: We all
8 understand that the 8- and 9-period day
9 was a bargaining item from April or
10 whenever negotiations began and
11 throughout, and it was discussed in
12 public. It was discussed in Executive
13 Session. It was discussed in
14 negotiations.

15 Now we're talking about timing
16 of a particular email and whether or
17 not that was detrimental to the Board
18 in terms of disclosing a particular
19 strategy for handling the item. So
20 Mr. Shaw's objections are, you keep
21 asking questions about was the 9-period
22 day discussed, was the 8-period day
23 discussed. We will all concede that
24 the 8- and 9-period day was discussed
25 for months.

1 Joseph Rickard - Direct

2 The question is now the specific
3 timing of the disclosure of the
4 strategy, because we were all here when
5 the union representative testified.

6 MS. WALSH: If the parties
7 understood each other's strategy -- if
8 they understood each other's positions
9 and understood each other's strategies,
10 it's not a confidential document and
11 that's what I'm getting at.

12 MR. SHAW: We would disagree
13 with that premise. In negotiations
14 when you're trying to settle a contract
15 if one party is inviting the other
16 party to listen to them regarding their
17 interest in a key issue and the
18 revelation is that, well, we're really
19 not that interested, in fact we're
20 thinking about hiring a consultant to
21 shore up our position on the 8-period
22 day and that then gets revealed out of
23 an Executive Session at that point in
24 the bargaining, it's a very, very
25 serious breach.

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: So do you
3 have another question, Ms. Walsh?

4 MS. WALSH: And that's
5 testifying. I ask that that not be
6 used as evidence in this proceeding. I
7 know you're explaining it, but it's
8 also testimony and your opinion.

9 MR. SHAW: It's not testimony
10 and I don't expect it to be taken as
11 such. I'm just trying to clarify where
12 the line of questioning would have
13 relevance and not.

14 MS. WALSH: But that's a premise
15 you have that --

16 THE HEARING OFFICER: No. It's
17 relevant to the discussion of these
18 objections and how to handle them and
19 whether a particular line of
20 questioning has been asked and answered
21 and is relevant.

22 MS. WALSH: Let me just ask you
23 another question and move on.

24 BY MS. WALSH:

25 Q. Has either side raised with the other

1 Joseph Rickard - Direct
2 the possibility of mediation as a strategy prior
3 to August 9th?

4 THE HEARING OFFICER: If you
5 know.

6 MR. SHAW: Objection, relevance.

7 THE HEARING OFFICER: And if you
8 know.

9 A. It was -- it was mentioned that --
10 somebody or it could have been myself raised the
11 issue if we couldn't come to an agreement, what
12 would happen, and I think that was raised and I
13 think Mr. Shaw probably was part of that
14 discussion.

15 THE HEARING OFFICER: Raised
16 with the Union?

17 THE WITNESS: Yes.

18 THE HEARING OFFICER: Or with
19 the Board?

20 THE WITNESS: No. With the
21 Board. Amongst the Board.

22 THE HEARING OFFICER: You were
23 present -- oh, amongst the Board.

24 THE WITNESS: Yeah.

25 THE HEARING OFFICER: Okay, just

1 Joseph Rickard - Direct
2 to clarify.

3 THE WITNESS: Yes, just in
4 Executive Session on would that bar a
5 phone call? You know, there was a
6 question, if we couldn't come to an
7 agreement, what would happen.

8 Q. Had the District hired a consultant
9 by that time, if you know, by August 9th?

10 THE HEARING OFFICER: If you
11 know.

12 A. A consultant?

13 Q. I'm sorry. Yes, a consultant on the
14 8- to 9-period day.

15 MR. SHAW: Eight to nine.

16 A. We had talked about it as far as --
17 no, the answer -- well, I don't know. I know we
18 talked about it. I don't know if it was on that
19 date or after.

20 Q. Did you consider the idea of hiring a
21 consultant to examine the impact of the alteration
22 in the school day, 8- to 9-period day, a
23 negotiating position?

24 MR. SHAW: I'm going to object
25 to the question.

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: And I'm
3 going to sustain.

4 MS. WALSH: He's a board member.

5 THE HEARING OFFICER: I
6 understand he's a board member, but
7 it's not about what he thought at this
8 point.

9 Q. Did the disclosure, in your opinion,
10 as board trustee have any impact on the outcome of
11 the TTA contract?

12 MR. SHAW: I'm going to object.
13 That isn't the point of the
14 proceedings. What was done, what could
15 have happened, what the remediation
16 efforts were to bring the bargaining
17 back to a certain point, that doesn't
18 go to the credit of the respondent in
19 this case.

20 THE HEARING OFFICER: I
21 understand.

22 Ms. Walsh, you will can ask the
23 question whether he was aware of any
24 particular impact as a result of it.

25 MS. WALSH: Yes, and this is one

1 Joseph Rickard - Direct
2 inadvertent email that was sent --

3 THE HEARING OFFICER: No, no,
4 no, no. We're not having --

5 MS. WALSH: I know. I was just
6 responding to him.

7 BY MS. WALSH:

8 Q. So were you aware, Mr. Rickard, as a
9 board trustee of any impact on the --

10 A. I wouldn't know that.

11 Q. Let me just ask, did the final TTA
12 contract result in the removal of the 9-period
13 day?

14 A. No. It's in the contract.

15 Q. It is in the contract.

16 Okay. I'm going to turn your
17 attention now to Charge 2 on the -- you don't have
18 a copy of the charges in front of you, but if you
19 look at...

20 MR. SHAW: If I may?

21 THE HEARING OFFICER: Yes.

22 MR. SHAW: Should he have the
23 charge in front of him to look at it or
24 should he be questioned about the
25 charges?

1 Joseph Rickard - Direct

2 MS. WALSH: I'm just referring
3 to --

4 THE HEARING OFFICER: Well, at
5 this point, it's a one-paragraph
6 charge. You probably know it by heart.

7 So why don't you go ahead with
8 your questions first.

9 Q. So this charge involves an Executive
10 Session on September 15th. Did you attend the
11 Executive Session?

12 A. Yes, I did.

13 Q. And what was the purpose of the
14 session?

15 A. (Answer stricken).

16 MR. SHAW: I'm going to ask that
17 the question be read back and I ask
18 that the --

19 THE HEARING OFFICER: Let's have
20 the question read back. We are talking
21 about Charge No. 2 in this hearing.

22 THE WITNESS: Oh, I'm sorry.

23 MR. SHAW: Then I'd like the
24 answer stricken from the record.

25 THE HEARING OFFICER: Yes, we'll

1 Joseph Rickard - Direct
2 strike that.

3 All right. We have four people
4 talking now. So it's impossible for
5 her to get it. Let's clean it up.
6 We're going to strike that last answer.

7 MS. WALSH: And that is probably
8 why we should probably have a copy of
9 the charge in front of him, so that
10 would eliminate the confusion.

11 MR. SHAW: If questions are
12 asked that could be responded to, there
13 would be no confusion.

14 MS. WALSH: That question could
15 be responded to, I asked about a
16 September 15th Executive Session.

17 THE HEARING OFFICER: You know,
18 argument between counsel is not moving
19 this case forward so let's try to
20 focus.

21 MS. WALSH: Could I just ask
22 another question? Because we do have
23 at consultant available at 11:30, and
24 we are at a breaking point for
25 Mr. Rickard's testimony. I'm not sure

1 Joseph Rickard - Direct
2 if he's available the rest of the day.

3 MR. SHAW: Well, I don't think
4 it's a good idea to have this witness,
5 in the middle of his testimony, have
6 the other witness and then have him
7 brought back to testify about that
8 witness's testimony.

9 THE HEARING OFFICER: Exactly.
10 Let's finish with this witness.

11 MS. WALSH: Okay.

12 BY MS. WALSH;

13 Q. So let me just ask.

14 THE HEARING OFFICER: Just for
15 the record, Charge No. 2, Official
16 Misconduct is in Joint 2: "In that on
17 or about September 15 Dorothy
18 Ziegelbauer was issued a confidential
19 report prepared by the Board-appointed
20 investigator Margaret Muenkel regarding
21 an alleged breach of confidential
22 personally identifiable student
23 information that was reviewed in
24 Executive Session and to be collected
25 backed from each member of the board to

1 Joseph Rickard - Direct
2 protect the privacy rights of those
3 individuals identified in the report.
4 Ms. Ziegelbauer refused to return the
5 report at the meeting and refuses to
6 return the report to date."

7 That's what you're being
8 questioned about, Mr. Rickard.

9 THE WITNESS: Yes. Sorry, my
10 fault.

11 MS. WALSH: That's okay.

12 BY MS. WALSH:

13 Q. Did you attend the September 15th
14 Executive Session?

15 A. Yes.

16 Q. And what was your understanding of
17 the purpose of the Executive Session before then?

18 A. To review the charges brought against
19 Dorothy Ziegelbauer.

20 Q. Were charges brought at that point,
21 on September 15th?

22 A. Let me see if I can get the timeline
23 right.

24 No, no. Actually it was -- it was to
25 go through that report.

1 Joseph Rickard - Direct

2 THE HEARING OFFICER: Okay,
3 thank you.

4 Q. Thank you.

5 A. Yeah.

6 Q. Were you aware before the
7 September 15th meeting that Mr. White was giving
8 out the Muenkel report, if you remember?

9 A. Yes, I believe I did. I did know.

10 Q. Okay. At the meeting, is it true
11 that Mr. White in fact did not state that he was
12 giving out the Muenkel report --

13 MR. SHAW: I'm going to object.
14 This is direct.

15 THE HEARING OFFICER: I know
16 this is a witness that you are trying
17 to conduct a direct and he's hostile.
18 Ask him what happened at the meeting
19 and let him tell us. Don't put the
20 words in his mouth.

21 Q. What happened at the meeting?

22 A. We came to the meeting. Uh,
23 Mr. White said that he had the report from the
24 consultant. He asked us -- that he was going to
25 give us the report and that we would have to

1 Joseph Rickard - Direct

2 return the report. We weren't allowed to take it
3 with us.

4 Um, the -- we then got the report, we
5 reviewed it. Um, we reviewed the report and then
6 Jeff said are you ready and a few people weren't
7 ready. So then, once he felt everybody agreed
8 that they had read the report and understood the
9 report, we gave it back to him. Dorothy got --
10 walked -- got up. She said I'm not going to give
11 the report back. She then said I really need to
12 talk to my attorney before I, you know, this is --
13 has big impact on me and my child. She walked
14 outside. She had a phone in her hand.

15 Inside we discussed, like, what do we
16 do, how do we get the report back. Dorothy came
17 back into the room and said, I am not -- you can
18 do what you want to do, but I am not going to give
19 this report back.

20 Q. And how much time did you have to
21 review the report, if you can remember, before you
22 were asked to give it back?

23 A. Um, it could be ten minutes.

24 Q. And did you have enough time to
25 review it?

1 Joseph Rickard - Direct

2 A. For a good first reading, yes. For
3 me.

4 Q. And who, in fact, if you know,
5 requested the Muenkel report?

6 A. Uh, who requested the Muenkel report.

7 THE HEARING OFFICER: If you
8 know.

9 Q. I'm sorry. Requested the
10 investigation is a better...

11 A. The initial investigation?

12 Q. Yes.

13 A. I'm trying to remember. I'm not
14 really sure.

15 Q. Okay. Okay. And you said the
16 superintendent told you you had to give the report
17 back. Is there any written policy that requires a
18 board member to give a report back?

19 A. No.

20 Q. Is there any, that you know of, New
21 York State law that requires a board member to
22 give a report back?

23 A. I did not -- I don't know.

24 Q. And was there any District written
25 protocol that the superintendent gave you that

1 Joseph Rickard - Direct
2 required you to give the report back?

3 A. No.

4 Q. And you do understand as a board
5 member, there are written protocols that require
6 board members to keep information confidential, is
7 that correct, to your understanding?

8 MR. SHAW: I'm going to object.
9 She's telling him what he should
10 answer.

11 MS. WALSH: No, what --

12 MR. SHAW: This is inappropriate
13 inquiry for direct examination.

14 MS. WALSH: No.

15 THE HEARING OFFICER: Ms. Walsh
16 and Mr. Shaw. Ms. Walsh, move on to
17 your next question, please.

18 Q. Now, you understand there are -- what
19 is your understanding of a board member's
20 obligation with regard to information received in
21 Executive Session?

22 A. That it shouldn't be shared with
23 anybody outside the board.

24 Q. And did you have any information, any
25 information or evidence that Trustee Ziegelbauer

1 Joseph Rickard - Direct

2 released the information in the report to anyone?

3 A. No, I do not.

4 Q. So you have no knowledge or
5 documentation that she released confidential
6 information from Executive Session; is that right?

7 A. Correct.

8 Q. Now, when -- as far as the charges
9 against Trustee Ziegelbauer, when do you recall
10 the Board decided to prefer charges?

11 A. I don't know the exact dates, but it
12 was shortly after.

13 Q. And who initiated, if you remember,
14 bringing the charges?

15 A. I'm sorry?

16 Q. Who initiated bringing the charges,
17 if you remember?

18 A. Dan Castricone.

19 Q. And what was the rationale?

20 A. Rationale was that, um, she
21 released -- she refused to give back a
22 confidential document. I don't remember if the
23 first charge was brought up, it may have been, but
24 it was the -- not her giving back the -- that
25 document.

1 Joseph Rickard - Direct

2 Q. And did Mr. Castricone point to any
3 written board protocol that required board members
4 to give back documents?

5 A. No.

6 Q. Did Mr. Castricone indicate that
7 there was any confidential information that
8 Trustee Ziegelbauer had released from the report?

9 MR. SHAW: Could that be read
10 back, I couldn't hear it.

11 THE HEARING OFFICER: Read back
12 the question, please.

13 (Record read)

14 MR. SHAW: Asked and answered.

15 MS. WALSH: No, 'cause we
16 weren't talking about this meeting. It
17 was not asked and answered.

18 THE HEARING OFFICER: I'll
19 decide if it was asked and answered so
20 hold on.

21 Mr. Rickard has already
22 testified that he has no knowledge of
23 any release by Ms. Ziegelbauer of the
24 report.

25 MS. WALSH: That's a different

1 Joseph Rickard - Direct

2 question than if Mr. Castricone had
3 indicated there was any release.

4 THE HEARING OFFICER: What's the
5 question that's pending, then?

6 What's the last question
7 pending, Kathy?

8 MS. WALSH: Did Mr. Castricone...

9 (Record read as follows:

10 "Question: Did Mr. Castricone
11 indicate that there was any
12 confidential information that Trustee
13 Ziegelbauer had released from the
14 report?")

15 THE HEARING OFFICER: I'll allow
16 the question. Do you understand it?

17 THE WITNESS: Yes.

18 THE HEARING OFFICER: Okay.
19 What's your answer? It's a yes or no.

20 A. No.

21 THE HEARING OFFICER: Okay.

22 Move on Ms. Walsh.

23 Q. And now, at September 24th, the board
24 did vote on a resolution to prefer the charges; is
25 that right?

1 Joseph Rickard - Direct

2 A. Yes.

3 Q. And how did you vote?

4 A. I voted no.

5 Q. And why is that?

6 A. I voted -- the first charge which I
7 asked them to drop, I thought I understood what
8 happened there. The second piece I was -- I was
9 pretty, um, stunned.

10 MR. SHAW: I'm going to object.
11 He's now testifying to his state of
12 mind.

13 THE HEARING OFFICER: Ms. Walsh?

14 MS. WALSH: I think it's
15 important, I said why did you vote no,
16 and I think it's a very important
17 question and it goes to the essence of
18 this proceeding.

19 THE HEARING OFFICER: Well, I'll
20 allow the question. I'd just ask the
21 witness to answer it as much as he can
22 without speculating.

23 A. I felt the report exoner- -- was
24 favorable to Dorothy, and I thought that there was
25 no, um, confidential -- well, what I thought was

1 Joseph Rickard - Direct
2 there was so much -- so many mistakes in the
3 process that led us there that to hold her
4 accountable for a document that she was basically
5 exonerated didn't make any sense, that taking
6 somebody off the board to do something which most
7 parents would have done the same way was way above
8 a standard to remove somebody from the board.

9 Q. When you said it was way above the
10 standard, what do you mean by that?

11 A. Well, the --

12 THE HEARING OFFICER: I'm going
13 to interject here. He was asked why he
14 voted no on the charges, and the charge
15 was that she refused to give back a
16 report.

17 MS. WALSH: Yes.

18 THE HEARING OFFICER: And the
19 answer was, it was favorable to Dorothy
20 and it was to hold people accountable.

21 I need the witness to listen to
22 the question and answer the question
23 that's being put to you.

24 THE WITNESS: Okay.

25 BY MS. WALSH:

1 Joseph Rickard - Direct

2 Q. So the question was why did you vote
3 no against the charges?

4 A. You want me to repeat it again?

5 I voted no because I didn't think
6 that it was a strong enough mistake or an issue or
7 whatever to remove somebody from the board.

8 THE HEARING OFFICER: Thank you.

9 Q. Thank you. Do you think that Trustee
10 Ziegelbauer willfully disobeyed a decision, order,
11 rule or regulation of the Regents?

12 MR. SHAW: I'm going to object.

13 THE HEARING OFFICER: And I'll
14 sustain the objection.

15 MS. WALSH: All right. I
16 think --

17 THE HEARING OFFICER: It calls
18 for speculation.

19 MS. WALSH: I think we're
20 finished.

21 THE HEARING OFFICER: Okay.
22 Mr. Shaw, do you have any questions?

23 (Discussion off record re
24 setting up monitor for a virtual
25 witness.)

1 Joseph Rickard - Cross

2 THE HEARING OFFICER: Now,
3 Mr. Rickard, you are still under oath.

4 THE WITNESS: Okay.

5 CROSS-EXAMINATION

6 BY MR. SHAW:

7 Q. Mr. Rickard, when Superintendent
8 White was handing out the report, did he say that
9 it had to be returned?

10 A. Yes.

11 Q. And did everyone return it to him?

12 A. Everyone but Dorothy.

13 Q. And had the board members each
14 committed to return it before it was handed out?

15 A. If they did, I don't remember people
16 saying yes, I will return it. I know I didn't say
17 I will return it. I just -- what I did -- I heard
18 what he said and I was going to return it, but I
19 didn't say, yes, I'm going to return it.

20 Q. Did you hear anyone say no, I will
21 not return it?

22 A. No. No, I did not.

23 Q. And you did read the report that
24 evening, right?

25 A. Yes.

1 Joseph Rickard - Cross

2 Q. And when the reports were returned,
3 did anyone say I need more time, could I have a
4 few more minutes to look at it?

5 A. No.

6 Q. And having read the report, apart
7 from references to a student, were there also
8 references to staff members and board members and
9 things that they might have said that Ms. Muenkel
10 was reporting on?

11 A. Yes.

12 Q. And would that be confidential
13 information as to those individuals?

14 A. Some would be confidential and some
15 would not be.

16 Q. In fact, wasn't there information
17 about what you had said written into the report?

18 A. Correct.

19 Q. And that wasn't after a hearing and a
20 finding of facts, right?

21 A. No.

22 Q. And when charges regarding
23 Ms. Ziegelbauer were being introduced to the
24 Board, they were introduced by the board
25 president; is that correct?

1 Joseph Rickard - Cross

2 A. Correct.

3 Q. And who was the board president then?

4 A. Dan Castricone.

5 Q. Would it will be typical for the
6 board president to lead an issue before the Board?

7 A. Yes.

8 Q. You heard Superintendent White state
9 that everyone had agreed that they would return
10 the report when he testified here?

11 A. Yes.

12 Q. Do you remember that?

13 A. Yes, I did.

14 Q. Did you have any reason to doubt his
15 testimony?

16 A. No.

17 Q. On or about August 9, 2021, were you
18 aware of a particular issue that was holding up
19 the negotiations?

20 A. Yes.

21 Q. What issue was that?

22 A. The issue was the nine -- the
23 9-period day.

24 Q. Isn't it true that you were in
25 Executive Session where the Board had been

1 Joseph Rickard - Cross
2 discussing hiring a consultant to make a point
3 about an 8-period day?

4 A. Yes. Let me clarify. Well, I don't
5 remember the 8-period day piece. I do remember
6 that we'd have a consultant that would -- the
7 objection wasn't so much the 9-period day. The
8 objection was more the time of the classroom, the
9 38 minutes and that we had so many studies periods
10 and the length of the -- so, it wasn't -- I don't
11 remember it was either the 8-period day versus the
12 9-period. It was just trying to fix the problem
13 created by the 9-period day.

14 MR. SHAW: I'd like the witness
15 to review the email that
16 Ms. Ziegelbauer sent to Cairenn
17 Broderick.

18 THE HEARING OFFICER: I'll
19 return, that's District 7?

20 MS. WALSH: R-F.

21 MR. SHAW: No. It's embedded
22 within R-F. It's the third page.

23 THE HEARING OFFICER: Yes.

24 BY MR. SHAW:

25 Q. And I'd like you to review that part

1 Joseph Rickard - Cross

2 in the letter that is addressed to Jeff in the
3 second paragraph.

4 Does that refresh your recollection
5 regarding what was being discussed strategically
6 in Executive Session?

7 A. This is at the top of page 3, right?

8 Q. Well, the top of page 3 is the seal
9 of the District.

10 A. Wait a minute. I'm on the wrong...

11 THE HEARING OFFICER: Where are
12 you asking him to direct himself to?

13 MR. SHAW: I'm asking him --

14 A. I got it.

15 Whoops, no, I don't have it.

16 THE HEARING OFFICER: Which
17 page are you on?

18 Q. It's the third page and there's a
19 line in the middle of the page, beneath that from
20 Mr. Dorothy Ziegelbauer, Jeff appears an inch or
21 two down, and then there's a second paragraph. Do
22 you see that?

23 A. Yeah, the Union is unwilling...

24 Q. Right, that.

25 A. Okay.

1 Joseph Rickard - Cross

2 Q. So I'm asking you, isn't that in fact
3 is that strategic issue that was being discussed
4 by the Board in Executive Session?

5 A. Yes, it was a -- I want to make sure
6 I answer this question correctly.

7 I wasn't aware that the 8-hour -- the
8 8-period was specifically, but I knew there was a
9 strateg- -- you had a negotiating position that
10 you were trying to, you know, win or bring across
11 the finish line.

12 Q. Do you remember a discussion about
13 bringing in a consultant to map out the 8-period
14 day in Executive Session?

15 A. Yeah, I -- yes, I believe I do.

16 Q. You testified to dealing with
17 technologies and emails in your business; is that
18 correct?

19 A. Correct.

20 Q. And would it be true that you're
21 really not an expert regarding technology?

22 A. Not an expert.

23 Q. And you have sent emails before?

24 A. Have I sent emails?

25 Q. Yes.

1 Joseph Rickard - Redirect

2 A. Yes, many.

3 Q. And if you press Reply, will the
4 email go back to the sender?

5 A. Correct.

6 Q. And if there are copies made, will
7 the email also include the copies or would that
8 have to be separately entered?

9 A. It would have to be Reply All to go
10 to everybody. If you press Reply, it only goes to
11 the sender.

12 MR. SHAW: Thank you. No
13 further questions.

14 THE HEARING OFFICER: All right.
15 Any redirect?

16 MS. WALSH: Just one or two.

17 REDIRECT EXAMINATION

18 BY MS. WALSH:

19 Q. In the Executive Session on
20 September 15th when you stated that Superintendent
21 White said you had to return the report, did he
22 list any written policy on this?

23 A. No.

24 Q. Did he use any specific term on this?

25 A. No.

1 Joseph Rickard - Redirect

2 Q. And did you hear him say the word
3 "protocol," if you remember?

4 A. No.

5 Q. And then you had mentioned you did
6 not think all the information in the report was
7 confidential. Could you just describe -- could
8 you just explain that?

9 A. Some -- some of the information that
10 was taken that was done was among conversations
11 among teachers and were, in my view -- I can give
12 you my opinion, I just don't believe they were
13 confidential. They were not part of any
14 documented process that we had in the district to
15 communicate issues. So it was more gossip and/or
16 side conversations or third-handed kinds of
17 things. So I didn't really believe that it was --
18 all of it was confidential.

19 Somebody would have to sit down with
20 an HR person, sit down and go through it.

21 Q. There was an allegation in the report
22 or a term used that there were whistleblower
23 complaints. Did you understand what that was
24 referring to?

25 MR. SHAW: Objection. This is

1 Joseph Rickard - Redirect
2 beyond the scope of the direct
3 examination and the cross.

4 MS. WALSH: No. It goes to the
5 confidentiality.

6 THE HEARING OFFICER: Yes, but
7 confidentiality is not the issue. The
8 issue is whether or not she gave it
9 back. She's already said she didn't
10 disclose it. He already said he
11 doesn't know that she disclosed, never
12 said she disclosed it. So --

13 MS. WALSH: Mr. Shaw asked what
14 is confidential, so it does go to that.

15 MR. SHAW: A whistleblower isn't
16 confidential, usually. That's not the
17 point of a whistleblower.

18 MS. WALSH: We'll to through the
19 witness.

20 BY MS. WALSH:

21 Q. In the email from August 9th, on
22 Respondent F, page three again, now, this
23 indicates, Mrs. Ziegelbauer wrote, in the
24 meantime, David was going to explore mediation
25 with Kerry. Do you know when that occurred, if it

1 Joseph Rickard - Redirect

2 did occur?

3 A. No. Actually that's the first time I
4 knew that is when I -- we had discussed it in a
5 general way, but I didn't know that David was
6 going to explore mediation with Kerry. I didn't
7 know that.

8 THE HEARING OFFICER: Ms. Walsh,
9 the redirect is limited to cross. So
10 we have three topics, the 9-period day,
11 the consultant's hiring and the
12 technical expertise of the witness.

13 Q. Let me just ask you one more
14 question. You had testified about the email, the
15 delegation issue on page 3 of Exhibit F?

16 A. Mm-hmm.

17 MR. SHAW: I didn't ask anything
18 about delegation.

19 THE HEARING OFFICER: Right.

20 MS. WALSH: No.

21 Q. I'm just noting the email on
22 August 9th, you had said that --

23 THE HEARING OFFICER: Ms. Walsh,
24 redirect is limited to
25 cross-examination.

1 Joseph Rickard - Redirect

2 MS. WALSH: I understand. I'm
3 noting exactly what Mr. -- I'm getting
4 to what Mr. Shaw had asked.

5 Q. You had talked about your
6 expertise -- in your expertise -- I'm sorry. In
7 your job, when you hit, you said when you hit
8 Reply, it goes to the sender; when you hit Reply
9 All, it goes to all the individuals.

10 Was that relevant as to whether this
11 was, in your opinion, an intentional disclosure,
12 if you look at the bottom of page 3, in other
13 words hitting Reply All?

14 A. No.

15 MS. WALSH: That's all.

16 THE HEARING OFFICER: Okay.

17 MR. SHAW: No further questions.

18 THE HEARING OFFICER: Okay.

19 This witness is excused.

20 Thank you very much.

21 (Joseph Rickard is excused
22 as a witness and leaves the
23 witness stand.)

24 (Anthony Olivo is called
25 as a witness and takes the stand

1 Proceedings

2 virtually.)

3 THE HEARING OFFICER: So,
4 Mr. Olivo, my name is Carol Hoffman and
5 I am the hearing officer conducting the
6 hearing. We have Ms. Kathy Keilty, who
7 is a principal in Steno-Kath, which is
8 the court reporter service that will be
9 taking down the testimony.

10 So we want you to, if she starts
11 waving her hands around and tells you
12 to stop, we need to pay attention to
13 that, but at the same time she's
14 maintaining a verbatim record, so her
15 hands are going to be busy. She's
16 asked that everybody try to really slow
17 down with their testimony, particularly
18 with the delay we're having, and take a
19 pause in between the question and an
20 answer.

21 MR. OLIVO: Okay.

22 THE HEARING OFFICER: And
23 remember that if there is an objection,
24 please hold your answer until there's a
25 ruling.

1 Proceedings

2 MR. OLIVO: Very good.

3 THE HEARING OFFICER: Now,
4 Mr. Shaw is going to question you first
5 and then --

6 MR. SHAW: No.

7 THE HEARING OFFICER: No?
8 You're going first?

9 Ms. Walsh is going to question
10 you first and then Mr. Shaw will follow
11 up with some questions, so we put
12 Ms. Walsh at the counsel table where
13 you can see her.

14 Do you want to wave so he knows
15 who you are? That's who we are. The
16 other members in the room are the board
17 members here in the district, and
18 Mr. Shaw will move over to the table
19 when it's time for him to ask you any
20 questions.

21 MR. OLIVO: Okay.

22 THE HEARING OFFICER: I know
23 that your report is in evidence as
24 District Exhibit 7, so that's one of
25 the documents. Do you have your report

1 Proceedings

2 in front of you?

3 MR. OLIVO: I do have my report
4 in front of me, yes.

5 THE HEARING OFFICER: Okay. You
6 can have that handy.

7 Is there anything else you want
8 to give him?

9 MS. WALSH: Yes, I want to give
10 him, which I did email this morning and
11 Mr. Shaw as well, which was District
12 No. 6, which is the email dated
13 August 9th as well as Respondent F, as
14 in Frank.

15 THE HEARING OFFICER: Okay,
16 good. So we've got those in evidence.

17 MS. WALSH: With regard to this
18 witness, the witness doesn't have to
19 hear this, but I reserve rights on the
20 subpoenaed documents.

21 THE HEARING OFFICER: Yes.

22 MS. WALSH: Okay.

23 THE HEARING OFFICER: All right.
24 So in these hearings, we have sworn
25 testimony. So would you raise your

1 Anthony Olivo - Direct
2 right hand.

3 Do you swear to tell the truth
4 and nothing but the truth with respect
5 to the testimony that you're about to
6 give?

7 THE WITNESS: I do.

8 THE HEARING OFFICER: Okay.

9 Your witness, Ms. Walsh.

10 WHEREUPON,

11 ANTHONY OLIVO,
12 called as a witness herein, having
13 been first duly sworn, is examined
14 and testifies as follows:

15 DIRECT EXAMINATION

16 BY MS. WALSH:

17 Q. Mr. Olivo, can you hear me?

18 THE WITNESS: If I could just
19 interject something. Unless you're
20 looking directly at this camera, I
21 can't hear a word you're saying. It's
22 a very garbled and muted.

23 THE HEARING OFFICER: And you're
24 kind of far away.

25 THE WITNESS: If you look at the

1 Anthony Olivo - Direct
2 camera and speak, that would help, I
3 think.

4 THE HEARING OFFICER: Why don't
5 we move that whole system a little
6 closer and direct it at Ms. Walsh for
7 now. I'll make myself heard if I have
8 to.

9 MS. HORNEFF: Can you
10 speak to Mr. Olivo, Ms. Walsh.

11 MS. WALSH: Yes. Can you
12 hear me, Mr. Olivo?

13 THE HEARING OFFICER: I
14 can hardly hear you.

15 (Discussion off record to
16 adjust the virtual setup.)

17 THE HEARING OFFICER: Mr. Olivo,
18 I've sworn you in, so you are now
19 Ms. Walsh's witness.

20 THE WITNESS: Okay.

21 BY MS. WALSH:

22 Q. Mr. Olivo, thank you so much for
23 being available today to testify. We appreciate
24 it.

25 I am Marion Walsh and I have some

1 Anthony Olivo - Direct
2 questions I'm going to ask you about your report.
3 I represent Trustee Ziegelbauer in this
4 proceeding, and then Mr. Shaw may have some
5 questions as well after I finish, okay?

6 If you can't hear me or --

7 A. Okay.

8 Q. If you can't hear me or don't
9 understand a question, just let me know.

10 A. Okay.

11 Q. And I'll try to pause before I ask
12 the question because there's a slight delay, okay?

13 So Mr. Oliver, I wanted to ask you
14 about your report, which is marked as District
15 Exhibit 7. It's called Report of Investigation.

16 A. Right.

17 Just so we're clear, my last name is
18 Olivo, O-l-i-v-o, so not Oliver.

19 Q. Yes, I did get that right before.
20 Thank you. I apologize for that.

21 A. No problem.

22 Q. Are you the author of this report,
23 Mr. Olivo?

24 A. Yes, I did author the report.

25 Q. And what date did you write it?

1 Anthony Olivo - Direct

2 A. The date that was on the report was
3 October 14, 2021.

4 Q. Is it on the report that we have?

5 A. It's on the cover letter. It was
6 written October 14th, 2021.

7 Q. Okay.

8 MS. WALSH: If I would just like
9 to ask for a copy of the cover letter,
10 but that goes to counsel, not to you,
11 okay.

12 Q. Could you just tell us a little bit
13 about your background? I'll clarify that.

14 A. I'm a --

15 Q. Go ahead.

16 A. I'm a New York State licensed private
17 investigator, a board-certified professional
18 criminal investigator. I have 38 years of
19 experience in federal and civilian law
20 enforcement, as well as private investigations,
21 and the director of investigative services and a
22 partner in CSI Group, LLC, which is our firm's
23 name, and I oversee investigative services for CSI
24 Group.

25 Q. And could you just tell us a little

1 Anthony Olivo - Direct
2 bit about your educational background. Start with
3 what degrees do you have.

4 A. I have an Associate's degree in
5 criminal justice from the University of Hawaii,
6 and I have a Community College of the Air Force,
7 and then I have a Bachelor of Science degree in
8 public administration from Capital University in
9 Columbus, Ohio.

10 Q. And do you have a degree in computer
11 science?

12 A. I do not have a degree in computer
13 science.

14 Q. Or do you have a degree in
15 informational systems?

16 A. I do not.

17 Q. Okay. Do you have any licenses?

18 A. I am a licensed private investigator
19 in New York State as well as the State of Florida.

20 Q. And you mentioned your current
21 position that you were at CSIG, and what is the
22 other group?

23 A. It's C, as in Charles, S, as in Sam,
24 I, as in Ida, CSI Group, that is my company.

25 Q. And how long have you been there, you

1 Anthony Olivo - Direct

2 mentioned -- you might have mentioned?

3 A. Twenty-seven years.

4 Q. Was there another position that you
5 mentioned or was that the only one?

6 A. Uh, I was a United States Marshals
7 criminal investigator and a police officer and
8 police detective prior to that.

9 Q. You mentioned an Air Force college.
10 Did you serve in the military?

11 A. I did.

12 Q. Well, thank you for your service.

13 A. US Air Force.

14 Q. Thank you for your service. I'm a
15 military mom. Thank you.

16 A. Thank you.

17 Q. Now, when were you contacted to do
18 the report?

19 A. To do the report or the
20 investigation?

21 Q. The investigation. I'm sorry.

22 A. Initially we were contacted on
23 October 12th.

24 Q. Okay. And by whom?

25 A. Mr. Shaw.

1 Anthony Olivo - Direct

2 Q. Okay. And what did he indicate was
3 the purpose of the report? Or the investigation,
4 I'm sorry.

5 A. The scope of the investigation was to
6 determine the origin and/or validity of an email
7 that was purportedly sent by one of the School
8 board members.

9 Q. Okay.

10 A. Ms. Ziegelbauer.

11 Q. Okay. And was there any other
12 direction given?

13 A. With respect to the email?

14 Q. Yes.

15 A. It was to try to determine how the
16 email may have been either forwarded or originated
17 from Ms. Ziegelbauer.

18 Q. Okay. District 7, the exhibit, the
19 investigation states that the client requested a
20 forensic analysis be conducted.

21 That's the background. Can you
22 describe your process in conducting the forensic
23 analysis of this email?

24 A. With respect to this email, it was
25 examined by Michael Tillery, a certified forensic

1 Anthony Olivo - Direct
2 examiner who works with our firm.

3 Q. Could you spell his --

4 A. And basically --

5 Q. I'm sorry. Could you spell his name?

6 A. T-i-l-l-e-r-y.

7 Q. Okay.

8 A. And it was basically to try to
9 determine how the email in question originated
10 and/or was forwarded.

11 Q. And in the next line of the report it
12 states that there was a comprehensive analysis of
13 the email in question as well as the email headers
14 and metadata were done.

15 Could you just describe what are the
16 email headers, what you mean by that?

17 A. So the email header is, for instance,
18 when you author an email, whatever email service
19 you utilize, whether it be Yahoo, Gmail or other
20 types of mail, the header will have a To and From
21 box in it and what it will have is, you know, to,
22 you know, Ms. Jones at gmail.com from Tony Olivo
23 at CSI Group LLC, or something of that nature. So
24 those are headers.

25 Behind those email addresses is

1 Anthony Olivo - Direct
2 what's called metadata, that just basically tells
3 you where it originated from.

4 Q. Is metadata something that we can see
5 in the email when we look at an email?

6 A. Um, with a software tool you can
7 (inaudible) --

8 (Cross-talk)

9 THE HEARING OFFICER: All right.

10 Mr. Olivo --

11 A. -- (inaudible) sometimes may be able
12 to see it.

13 THE HEARING OFFICER: Mr. Olivo,
14 we're going to take a pause for a
15 minute. We have a guest in the room;
16 it's a confidentiality issue.

17 THE WITNESS: Okay.

18 (Recess taken)

19 THE HEARING OFFICER: All right,
20 Mr. Olivo.

21 BY MS. WALSH:

22 Q. I'm sorry, you were in the process of
23 answering a question.

24 MR. SHAW: Can we have the
25 question read back, please.

1 Anthony Olivo - Direct

2 (Record read as follows:

3 "Is metadata something that we
4 can see in the email when we look at an
5 email?")

6 A. Not normally, no. It's something
7 that would require software tool to look at.

8 Q. So did you or Mr. Tillery have access
9 to the District's server?

10 A. No, we did not in this case.

11 Q. So do you know how he looked at the
12 metadata?

13 A. We looked at it with a software
14 program, or Michael did, with a software program,
15 but we were able to determine through the headers
16 of the email how the exchange would have occurred.

17 Q. Right. Could you tell me what
18 credentials or degrees, if you know, that Michael
19 Tillery has an IT expert, if any?

20 A. He's a federal court certified
21 forensic examiner.

22 Q. And did you speak to Mr. Tillery
23 about his conclusions before you wrote the report?

24 A. Yes.

25 Q. Do you know if he reviewed the

1 Anthony Olivo - Direct

2 report?

3 A. If he reviewed the report?

4 Q. Right. Do you know if he did, right?

5 A. I don't -- I don't know if he did or
6 not.

7 Q. I want to turn your attention to --
8 well, let me, I'm sorry, before I turn your
9 attention to the exhibit, what emails, if any, if
10 you recall, did you receive from Mr. Shaw before
11 conducting the forensic analysis?

12 MR. SHAW: I'm going to object
13 to whatever emails there might have
14 been other than his testimony regarding
15 the review of the documents in evidence
16 and the conclusions reached. He was
17 engaged by me, by our law firm, to
18 assist us in determining how to present
19 the District's case in these
20 proceedings.

21 THE HEARING OFFICER: I'm going
22 to sustain that objection because we've
23 already had a caucus on this and
24 there's been a request for a privilege
25 log which I will create and those

1 Anthony Olivo - Direct
2 documents will be held in my
3 possession. I've already represented
4 that Mr. Olivo received this one
5 report, and any email conversation back
6 and forth would be confirmed by the
7 attorney-client privilege noted as
8 preparation of defense.

9 MS. WALSH: And I do have
10 objection and I would like a chance to
11 respond to that. However, for this
12 purpose, my question was related to --
13 we have two emails in evidence at least
14 here, so my question was what emails he
15 was reviewing in connection
16 specifically with this investigation,
17 not about the other -- if there are
18 other emails.

19 MR. SHAW: If I may, he can
20 speak to the emails that he reviewed.
21 I mean, the extent to which counsel for
22 the respondent would want to know
23 whether or not he reviewed what is in
24 evidence as Exhibit R-F, that would be
25 a legitimate question to ask if that's

1 Anthony Olivo - Direct
2 what she's getting at.

3 MS. WALSH: That's what I was
4 getting at. However, I would still
5 like to know if there were other emails
6 he investigated as part of, in
7 connection with -- if there are other
8 emails that we don't know about that he
9 looked at as well.

10 MR. SHAW: Now, are you speaking
11 to correspondences between and among
12 board members?

13 MS. WALSH: No, no. I'm
14 asking -- why don't we move on and I
15 can always come back to it. Okay?

16 No, that's not what I was
17 referring to.

18 BY MS. WALSH:

19 Q. So if you could look at Exhibit 6,
20 which was an email that was sent. It's listed at
21 the top, Exhibit 6.

22 A. Right.

23 Q. District 6, I believe.

24 A. I've got it.

25 Q. Now this, if you could look at the

1 Anthony Olivo - Direct

2 full document, it's a three-page document. It
3 says Cairenn Broderick at the top?

4 A. Correct.

5 Q. Okay. Was this the email that you
6 received to investigate?

7 A. This looks like a copy of the email
8 that was forwarded to me by Mr. Shaw to look at,
9 yes.

10 Q. Okay. And did it have each part of
11 this chain, if you know?

12 A. Um, I think, yes, it does look like
13 it did.

14 Q. Okay. And if you could look at
15 Exhibit F, as in Frank, it was -- I don't think it
16 was marked at the top, but it's the next email in
17 the chain that I sent you, that Mr. Shaw has that
18 copy of.

19 A. Is this the one from Dorothy
20 Ziegelbauer to Daniel Castricone?

21 Q. Yes. Yes.

22 A. I have it.

23 Q. Okay. And it is five pages long? I
24 know you have a PDF.

25 A. I have an email, then I have a, what

1 Anthony Olivo - Direct

2 looks like letterhead that was part of that.

3 Q. Mm-hmm, right.

4 Now my question is, did you review
5 Exhibit F as part of your investigation?

6 A. If you're referring to this email
7 from Ms. Ziegelbauer to Mr. Castricone in this
8 document here that you're talking about? No, I
9 did not.

10 Q. Okay. That was my question.

11 And in addition to those two exhibits
12 related specifically to this investigation, were
13 there other emails related to this correspondence,
14 any that you reviewed? I'm not talking about
15 communications with board members. I'm asking as
16 part of your investigation.

17 A. Other than what we previously
18 discussed that's contained in our report?

19 Q. Yes.

20 A. No.

21 Q. Okay. So if you could turn back to
22 your report, that's District 7. I just want to
23 turn your attention to the paragraph in your
24 report, paragraph 3, this states, "The email sent
25 by Jeff White on August 9, 2021, at 12:53, on

1 Anthony Olivo - Direct
2 behalf of Cairenn Broderick of NYSUT indicates
3 that there is a delegation or federation between
4 the two emails."

5 Could you just explain what you meant
6 by a delegation of emails?

7 A. So we were not able to determine
8 which, but a delegation would be -- so a
9 federation would be something set up between two
10 server systems. So, essentially, if the Tuxedo
11 School District server system and the NYSUT server
12 system had a relationship, what's called a trust
13 relationship between those two systems, that would
14 be called a federation.

15 A delegation would be that you, as
16 Ms. Walsh, could give Mr. Shaw permission to on
17 your behalf correspond with people as if they were
18 coming from your email. So that happens
19 oftentimes in law firms and stuff so paralegals
20 have the ability to send an email on behalf of the
21 attorney, et cetera.

22 Q. Okay. So you couldn't determine
23 which one, a delegation or a federation; is that
24 what you meant?

25 A. We would not be able to determine

1 Anthony Olivo - Direct
2 that without examining the server itself. The IT
3 department from the school district can certainly
4 determine that.

5 Q. Okay. Now, so you then explain in
6 the next sentence that Ms. Broderick, Cairenn
7 Broderick of N-Y-S-U-T, NYSUT, has given
8 permission for emails to be sent on their behalf
9 by Jeff White. Is that -- could you just explain
10 what that means?

11 A. So essen- --

12 Q. Go ahead. I'm sorry.

13 A. Essentially, yes, what that means is
14 that in order for Mr. White to have authored an
15 email on behalf of Ms. Broderick, there would have
16 had to be some permissions granted for him to do
17 that.

18 Q. Okay. Now, I just want to turn to
19 the emails you had mentioned, which is, again,
20 District 6.

21 A. Okay.

22 Q. And now, this email that is written
23 by Ms. Ziegelbauer at 2:44. Do you see that it's
24 responding -- you know, it's responding to the
25 email at 12:53, and do you see that the body of

1 Anthony Olivo - Direct

2 her email is addressed to Mr. White? "to Jeff,"
3 it says?

4 A. Yes.

5 Q. Okay. But did it go to Ms. Broderick
6 due to the delegation or federation of emails,
7 would that be accurate?

8 A. The reason why Cair- -- if I'm
9 pronouncing it correctly, it's Cairenn Broderick
10 was because of that, yes.

11 Q. So because of the delegation or
12 federation of emails?

13 A. Correct.

14 Q. Okay. And you explained this in your
15 report as well. I think you stated that it's
16 indicated the email authored by Ms. Ziegelbauer on
17 August 29th, by hitting Reply the email was sent
18 to Ms. Broderick.

19 The initial email was sent on behalf
20 of her by Jeff White, is that another way to say
21 it? I'm just trying to understand.

22 A. Correct.

23 Q. Okay. So this went to Ms. Broderick.
24 Would it be fair to say it's due to -- I don't
25 know how to characterize it, but would you say

1 Anthony Olivo - Direct
2 it's due to problems with the email system? Would
3 you say it's a confusing situation? How would you
4 characterize it?

5 A. I would not say that either one of
6 those is accurate. What I would say is it went to
7 Broderick because the recipient, in this case, Ms.
8 Ziegelbauer, hit Reply, and by doing so she
9 replied to Ms. Broderick because the initial email
10 was sent out on behalf of Ms. Broderick by
11 Mr. White.

12 Q. But do you see that the email itself
13 was written, on page 1 and 2 of District 6, on the
14 bottom of page 1, "Ladies and Gentlemen, as we've
15 discussed the teachers union wanted an opportunity
16 to address the Board" and it says "Thank you,
17 Jeff." So the email was written by Mr. White,
18 wasn't it?

19 A. I -- I assume so.

20 Q. Yeah. And so, if Ms. Ziegelbauer
21 hadn't looked at the email address but just had
22 looked at the note from Jeff and just hit Reply,
23 she would have thought she was responding to
24 Mr. White; is that right?

25 A. I don't know.

1 Anthony Olivo - Direct

2 Q. Okay.

3 A. I can't tell what she thought of at
4 the time she authored the email.

5 Q. But just looking at these documents,
6 she wrote a note to Jeff and then it says from
7 Dorothy and then the note before that was from
8 Jeff?

9 MR. SHAW: Objection. I think
10 the witness has explained his knowledge
11 of this transaction.

12 THE HEARING OFFICER: Sustained.

13 Just ask the question,
14 Ms. Walsh, rather than make statements.

15 Q. Now, you state in your report, the
16 next paragraph -- I'm sorry, let me just read the
17 next sentence. You state in your report regarding
18 the email in question, that's the August 9th, is
19 indicating the email was authored by Dorothy
20 Ziegelbauer at her email on August 9th, she hit
21 Reply and it was sent to Cairenn Broderick due to
22 the initial email being sent on behalf of her.
23 And again, and that's the initial email from Jeff
24 White being sent from Cairenn's address; is that
25 right?

1 Anthony Olivo - Direct

2 A. Well, it had Cairenn Broderick's
3 address in the header as well as Jeff White's but
4 it's indicated that that email coming from Jeff
5 was on behalf of Ms. Broderick.

6 Q. Does it say --

7 A. So it --

8 Q. I'm sorry, go ahead.

9 A. Well, go ahead.

10 Q. Oh, no. You can finish.

11 A. So that's why that's indicated that
12 way.

13 Q. Does it say anywhere in the email on
14 page 1 that it's on behalf of -- page 1 at the
15 bottom August 9th at 12:53? If you look at the
16 email, does it say it's on behalf of -- this says
17 from Cairenn Broderick, but it doesn't say
18 anything else, right?

19 MR. SHAW: I'm going to object.

20 The witness has already given the
21 explanation --

22 MS. WALSH: No, he --

23 MR. SHAW: -- as to how Jeff
24 White could have sent this information
25 to the Board.

1 Anthony Olivo - Direct

2 MS. WALSH: But it's not
3 obvious.

4 THE HEARING OFFICER: I will
5 overrule it and let you finish,
6 Ms. Walsh, but it does seem like you're
7 going over the same thing again and
8 again.

9 MS. WALSH: No, he just said she
10 was responding to an email on behalf --

11 Q. If you didn't know about this
12 delegation and you saw this email on August 9th at
13 12:53, how would you know that it was on behalf of
14 Jeff White and by Cairenn Broderick?

15 A. Because the email that we examined
16 was sent on behalf of Cairenn Broderick by Jeff
17 White.

18 Q. But you can agree that this is --
19 it's a confusing situation to get an email from
20 one email and respond to the body of the email?

21 MR. SHAW: I'm going to object
22 to that.

23 THE HEARING OFFICER: Yeah.

24 MR. SHAW: It's really argument
25 and characterization.

1 Anthony Olivo - Direct

2 THE HEARING OFFICER: It's
3 argumentative and it's also asked and
4 answered. He said he wouldn't use the
5 word confusing.

6 MS. WALSH: I don't think I used
7 confusing before, but that's all right.

8 Q. Do you see -- do you do a lot of
9 investigations on these delegations and
10 federations of the email?

11 A. We do a lot of investigations on
12 emails and a lot of cybersecurity investigations,
13 and one of the biggest issues and one of the most
14 problematic things specifically for school
15 districts is when people open attachments or reply
16 to emails and they're not sure of or look at the
17 headers.

18 So this header should have been
19 reviewed by the person prior to sending it because
20 it could cause issues from a cybersecurity
21 perspective. So, yes, we do a lot of
22 investigations into emails.

23 Q. Did you ever interview
24 Ms. Ziegelbauer to find out if she knew about this
25 delegation or federation of emails?

1 Anthony Olivo - Direct

2 A. No, we didn't conduct any interviews
3 in this matter.

4 Q. So just other than looking at the
5 sent email, how would a person know that an email
6 is sent on behalf of anyone?

7 THE HEARING OFFICER: Did you
8 hear that, Mr. Olivo?

9 THE WITNESS: Yes.

10 A. So I believe, if I have the question
11 correct, you wanted to know how someone would have
12 known that that email was sent on behalf of
13 someone. It would have been in the header, but
14 also I would point out to you that before the
15 salutation part of her email where it says Jeff,
16 it talks about the email being affiliated with
17 and/or originated outside of the New York State
18 United Teachers Union or NYSUT, so that would
19 indicate that there was a connection to the New
20 York State United Teachers Union. So that was a
21 warning that would go into their email system.

22 Q. And could you just tell me what
23 page your looking at?

24 A. I'm looking at your Exhibit No. 6 on
25 page 1. If you look above where the word Jeff is

1 Anthony Olivo - Direct
2 typed, there's a warning in there. That is a
3 warning that's originated by the NYSUT email
4 system.

5 Q. And do you know if a recipient would
6 see that right away? It says outside of NYSUT,
7 but so NYSUT is -- NYSUT is not the organization
8 that Ms. Ziegelbauer is part of. So why would
9 that be a warning for her?

10 A. Because that email that we're talking
11 about here, your No. 6, originate's from mS,
12 Ziegelbauer at 2:44 p.m. and it went to
13 Ms. Broderick at NYSUT, and --

14 Q. But isn't --

15 A. -- in doing --

16 Q. Go ahead. I'm sorry.

17 A. No. In doing so, that warning was
18 generated in that email.

19 Q. But wouldn't the warning have --

20 A. Because it went --

21 Q. Sorry.

22 THE HEARING OFFICER: All right.
23 I'm going to ask -- Mr. Olivo, I know.

24 I'm going to ask you to wait and
25 Ms. Walsh to wait until each other

1 Anthony Olivo - Direct

2 finishes.

3 THE WITNESS: I'm sorry.

4 Q. But wouldn't that warning have
5 actually gone to Ms. Broderick when she -- because
6 when she responded, not sure if you received this
7 email and sent it to Jeff White and Mr. Shaw, how
8 would Ms. Ziegelbauer have seen that warning,
9 correct?

10 A. It would be in Ms. Broderick's inbox,
11 correct.

12 Q. Okay. So she should have noticed
13 that, then, right?

14 A. I believe so.

15 Q. Yeah. So just to clarify, do you
16 have -- do you know if -- I know you said you
17 didn't interview her but did you come upon any
18 knowledge on whether Ms. Ziegelbauer did have any
19 knowledge of the delegation or federation of
20 emails?

21 A. I have no knowledge of that one way
22 or the other and can't answer that question.

23 Q. Okay. And I think you had mentioned
24 the warning as one way, but aside from the warning
25 which didn't go to Ms. Ziegelbauer, how would a

1 Anthony Olivo - Direct
2 person know that -- and from the small heading,
3 how would they know if an email was sent on behalf
4 of anyone if they're responding to a subsequent
5 email?

6 A. How would they know? So I'm not sure
7 what the question is exactly. Are you saying how
8 would they know if she's -- how would
9 Mrs. Ziegelbauer know if she was responding to Ms.
10 Broderick or Mr. White, is that the what you're
11 asking?

12 Q. No. How would she know that it was
13 sent on behalf of, that the email we're talking
14 about at August 9th at 12:53 was sent by Cairenn
15 Broderick on behalf of -- or, I'm sorry, the
16 opposite way, was sent by Jeff White on behalf
17 of Cairenn Broderick?

18 A. It would have been the original email
19 that she received.

20 Q. It would have had Cairenn Broderick
21 at the top; is that right? But do you know if it
22 would have had Jeff White as well?

23 A. It would have had Jeff White at the
24 top, on behalf of Cairenn Broderick.

25 Q. But it doesn't say that here,

1 Anthony Olivo - Direct
2 correct? Okay.

3 And does it say -- it doesn't say
4 that here, does it, on the August 9th at 12:53
5 email?

6 A. No, it doesn't, but there was an
7 email that did say that "On behalf of."

8 MS. WALSH: If we could get a
9 copy of that. Maybe it's this one
10 here.

11 If we could get a copy of that,
12 whatever it is.

13 THE HEARING OFFICER: Copy of
14 what?

15 MS. WALSH: He said there was an
16 email that said "On behalf of," and I'm
17 just trying to find it.

18 Q. Are you saying it's on page of 2 or
19 this? I'm just wondering where it is that it
20 would say that.

21 A. Give me one moment. Let me see if I
22 can find it.

23 Q. Okay.

24 A. The email was sent on August 9th at
25 12:53 p.m., it was from Jeff -- so you don't have

1 Anthony Olivo - Direct

2 this email?

3 THE HEARING OFFICER: Which one?

4 Q. No, I have one that says on
5 August 9th, 2021, at 12:53 p.m., Cairenn Broderick
6 wrote?

7 A. Right. But I have one that says,
8 "From Jeff White on behalf of Cairenn Broderick."
9 That's the one we examined.

10 Q. Well, we don't have that one.

11 A. I am going to send this to you.

12 Just tell me if I should send this or
13 what?

14 THE HEARING OFFICER: No, we --

15 MR. SHAW: You should certainly
16 send that.

17 THE HEARING OFFICER: To your
18 email address, is that how we're doing
19 it?

20 MR. SHAW: Yes.

21 Q. You can respond Reply All to the
22 email I sent him, that way we'll both get it.

23 A. The email, I'm sorry, Ms. Walsh,
24 which email?

25 Q. I sent you an email earlier this

1 Anthony Olivo - Direct

2 morning and if you could --

3 A. With Mr. Shaw? Yeah.

4 Q. Yes. And you can Reply All to that,
5 and then we'll send it to Ms. Hoffman?

6 A. Right. And I think this illustrates
7 exactly what we're talking about. I just sent it,
8 so you can look at the header on this email.

9 MS. WALSH: Well, we don't have
10 a copy of that, and I'm concerned about
11 having this in evidence now, but we'll
12 look at it.

13 THE HEARING OFFICER: Send it to
14 me. You apparently have it on your
15 iPhone now.

16 MR. SHAW: Yes.

17 A. I just sent it to you.

18 Q. Okay, thank you.

19 MS. WALSH: Let me just go get
20 my phone to see if I can get it.

21 MR. SHAW: It's not here yet by
22 email. Could you text it?

23 THE HEARING OFFICER: Could you
24 text it to one of us.

25 (Discussion off record.)

1 Anthony Olivo - Direct

2 THE HEARING OFFICER: So
3 could you text it to this
4 number, 516.818.8804.

5 THE WITNESS: Okay. I'm going
6 to try to do that. I have it in email
7 format. Let me just see.

8 THE HEARING OFFICER: Could you
9 take a picture of it?

10 THE WITNESS: I'm going to do
11 that, yes.

12 Did it come through?

13 THE HEARING OFFICER: Not yet.

14 MS. WALSH: Just note our
15 objection on the record.

16 (Discussion off record.)

17 THE HEARING OFFICER: Please let
18 the record reflect that there was a
19 break to examine a document that the
20 witness was referring to that neither
21 Ms. Walsh nor Mr. Shaw nor I nor any of
22 the witnesses here have in their
23 possession, and we were attempting to
24 get an exhibit through this Zoom
25 witness and it took some time.

1 Anthony Olivo - Direct

2 At this point, we have it on a
3 Screen Share and we will print it at
4 some point and make it an exhibit. I
5 don't believe I have a hearing
6 officer's exhibit yet.

7 MR. SHAW: No.

8 THE HEARING OFFICER: So I'll
9 make this Hearing Officer's Exhibit
10 No. 1.

11 (Hearing Officer Exhibit 1,
12 August 9, 2021 email examined by CSI
13 Group, is marked and received in
14 evidence, as of this date.)

15 THE HEARING OFFICER: And now,
16 if you'd like, Ms. Walsh, you can ask
17 questions about it.

18 MS. WALSH: As noted, I did have
19 an objection about it, but we have it
20 from him, so I will ask questions, and
21 we reserve the right to object to this
22 in evidence.

23 BY MS. WALSH:

24 Q. However, Mr. Olivo, could you just
25 explain how you were able to have this on your

1 Anthony Olivo - Direct
2 email and we were not in the chain and the
3 District exhibits did not have it and the
4 Respondent's, Ms. Ziegelbauer's exhibits did not
5 have what I guess you initially called the header,
6 the full header?

7 A. So the email that you see on your
8 screen is the email that was provided to us to
9 examine by the District along with the email that
10 you have from Ms. Ziegelbauer that starts with
11 "Jeff" on it. So those are what we examined.

12 If you look at the email on your
13 screen, there's a From line, and it says, "From:
14 Jeff White on behalf of Cairenn Broderick, at
15 NYSUT," and then it's addressed to the Board of
16 Education and this Kristine DiFrancesco.

17 Q. And do you believe that this is how
18 it appeared to the Board of Education and to
19 Kristine when it was sent, if you know?

20 A. No. That's how it was sent out to --
21 I don't know who's on the Board of Education list.
22 We don't have that. So that's how it got sent to
23 those people.

24 Q. But my question was, do you know if
25 the recipients would have seen it like you have it

1 Anthony Olivo - Direct
2 or just from Cairenn?

3 A. Yes, they would have seen it like
4 this that's on your screen.

5 Q. So you would look at this quickly, if
6 you're replying to an email, you would look at it,
7 it says from Jeff White, if you didn't read the
8 rest of it, you would just see it's from Jeff
9 White, would that be accurate?

10 A. Are you asking me what I would do --

11 Q. No.

12 A. -- or are you asking me what other
13 people --

14 Q. No. This does indicate it's from
15 Jeff White, the email, correct, and then later it
16 says on behalf of Cairenn Broderick. But if you
17 were replying quickly, you would just see Jeff
18 White; would that be fair to say?

19 MR. SHAW: I'm going to object.

20 It's a compound question, and it's also
21 little misleading when it says later
22 on. Isn't it populated on the same
23 line directly following?

24 Q. The question is, is the email from
25 Jeff White?

1 Anthony Olivo - Direct

2 A. No.

3 Q. Even though it says, Thank you, from
4 Jeff?

5 A. The email is from Jeff White on
6 behalf of Cairenn Broderick.

7 Q. But he didn't says that in his body,
8 did he, in the body of the email?

9 MR. SHAW: The document speaks
10 for itself.

11 Q. He didn't say I'm writing on behalf
12 of Cairenn. It says from Jeff.

13 MR. SHAW: Objection.

14 THE HEARING OFFICER: All right.

15 MS. WALSH: Okay. I think we
16 understand.

17 THE HEARING OFFICER: Well,
18 hold on a second, Ms. Walsh. We're
19 still talking about an objection. Do
20 you want to be heard on it?

21 MS. WALSH: Yes. Yes.

22 THE HEARING OFFICER: Okay.
23 What's your position?

24 MS. WALSH: I think the District
25 is saying, and Mr. Olivo isn't saying

1 Anthony Olivo - Direct
2 that this is an email from --
3 acknowledging quite that it's an email
4 from Jeff White, but the body of the
5 email is an email from Jeff White. So
6 I think to needs to be clear.

7 THE HEARING OFFICER: Okay.
8 Well, we're going to resolve this by
9 saying the document speaks for itself.

10 MS. WALSH: Okay.

11 THE HEARING OFFICER: This is a
12 document that you have and you
13 reviewed, Mr. Olivo?

14 THE WITNESS: Yes, we did review
15 it.

16 MS. WALSH: I have a major
17 objection, though, with counsel not
18 disclosing this email to us in our
19 exhibits, because this is an email you
20 sent to the investigator and this email
21 is not a complete copy of it.

22 THE HEARING OFFICER: Well, it
23 doesn't indicate that it was sent by
24 Mr. Shaw.

25 MS. WALSH: No.

1 Anthony Olivo - Direct

2 THE HEARING OFFICER: It
3 indicates that it was sent by
4 Superintendent White.

5 MS. WALSH: No, but for
6 Ms. Ziegelbauer, who has to create her
7 defense --

8 THE HEARING OFFICER: I
9 understand.

10 MS. WALSH: -- and understand
11 what the charges are and understand how
12 this happened, this is prejudicial
13 because she only has this one page in
14 both of our exhibits. We do not have
15 this. So it changed the nature of --
16 well, this is different information.
17 It's more information than we had.

18 THE HEARING OFFICER: I know
19 it's more information. I think it's
20 important as an exhibit, and I'll admit
21 it into evidence on my own motion. It
22 appears that we're all being advised of
23 this particular exhibit at this time.

24 MR. SHAW: Madame Hearing
25 Officer, could we have read into the

1 Anthony Olivo - Direct
2 record how this is addressed at the
3 top?

4 THE HEARING OFFICER: We don't
5 have a copy of it yet but we are
6 looking at the Screen Share, so let's
7 put it into the record to make sure
8 that what we ultimately receive is
9 consistent.

10 This is a document that says at
11 the top, Tony Olivo,
12 tolivocorporateconsultantinvestigation.
13 com; To: Marion David, and this was
14 requested -- Marion David, this was
15 requested by email today. Ms. Walsh, I
16 understand, sent an email to Mr. Olivo
17 and he was responding to you to provide
18 it; is that right?

19 MS. WALSH: No, no. No.

20 THE HEARING OFFICER: It has
21 your email address.

22 MS. WALSH: It has it because I
23 sent him and email requesting the
24 exhibits. I was requesting them,
25 responsive to the subpoena.

1 Anthony Olivo - Direct

2 THE HEARING OFFICER: So,
3 Mr. Olivo, you sent this to Ms. Walsh
4 and Mr. Shaw.

5 THE WITNESS: Right. Per
6 Ms. Walsh's request, I forwarded this
7 by replying all to Ms. Walsh and
8 Mr. Shaw from her earlier email today.

9 THE HEARING OFFICER: Right. So
10 this was transmitted at 1:02 p.m., on
11 today's date, November 4, and we're all
12 seeing it or we're seeing it for the
13 first time.

14 From: Jeffrey White,
15 jwhite@tuxedoufsd.org, on behalf of
16 Cairenn Broderick,
17 carienn.broderick@nysut.org; Sent:
18 Monday, August 9, 2021, 12:53 p.m.; To:
19 The 2021 Board of Ed,
20 2021boe@tuxedoufsd.org and Kristine
21 DiFrancesco,
22 kdifrancesco@tuxedoufsd.org, Subject:
23 FW: TTA-TUFSD Meeting; When: Thursday,
24 August, 7, 2021, 5:30 p.m. to
25 7:00 p.m.; Where: NYSUT Zoom Room, and

1 Anthony Olivo - Direct
2 it gives a number, 9062244976. And
3 then the body of the document, I
4 believe, is what we have on ours, and
5 your face, Mr. Olivo, is blocking it
6 out, so I'm going to read it and see if
7 it's the same.

8 I just want to get the right one
9 because there are several.

10 Oh, good. We moved you up and
11 out.

12 THE WITNESS: Okay.

13 THE HEARING OFFICER: "Ladies
14 and Gentlemen, as we had discussed
15 previously the Teachers Union wanted an
16 opportunity to address the Board and
17 discuss the 9-period day issue to share
18 their perspectives and concerns. We
19 had been hoping to do it right away,
20 but it appears that the soonest time
21 that fits with schedules is this
22 Thursday, August 12, at 5:30. Please
23 confirm with me that you can make it.
24 Thank you, Jeff," and then there are
25 three dots and on the bottom, Reply,

1 Anthony Olivo - Direct
2 Reply All or Forward. That's
3 everything on this screen.

4 BY MS. WALSH:

5 Q. So can you just clarify --

6 A. Just for clarification, these boxes
7 on the bottom, that say Reply, Reply All, and
8 Forward, those are on my computer. They are not
9 on this email.

10 THE HEARING OFFICER: Thank you.

11 Q. Thank you. That's helpful.

12 So just so clarify, Mr. Olivo, if any
13 board member had responded to "Please confirm with
14 me you can make it" and just hit Reply, that would
15 have gone to Cairenn Broderick; is that right?

16 A. Correct, it would have gone to
17 Cairenn Broderick if they hit Reply.

18 Q. Okay. Now, just to few more
19 questions about your report. I'm almost done.

20 Let me go back to 7. In the next --
21 yeah, District 7, in the middle of paragraph 4,
22 you have stated, in the middle paragraph, "the
23 c.c. lines were either autofilled or physically
24 typed to the recipients." You have no basis to
25 know which one, is that accurate?

1 Anthony Olivo - Direct

2 A. Correct.

3 Q. Okay. You then state that, For
4 example, Trustee Ziegelbauer, Mrs. Ziegelbauer
5 would have begun typing a recipient whom she had
6 emailed prior and the address as well as the
7 extension automatically populate in that c.c.
8 address line. Isn't that only speculative?

9 A. I'm sorry. What are you referring
10 to?

11 Q. The last line to paragraph four, For
12 example, Mrs. Ziegelbauer in the c.c. line would
13 have begun typing a recipient whom she had emailed
14 prior and the address as well as the extension
15 would automatically populate in that c.c. address
16 line. Isn't that just speculative?

17 A. I apologize. I'm still looking for
18 the words that you're referring to in my report
19 here.

20 Q. Look at it "disposition," and if you
21 go up one paragraph, "the client has indicated
22 that Jeff White was not a recipient," and if you
23 go a line before that, "For example,
24 Mrs. Ziegelbauer in the c.c. line would have begun
25 typing a recipient whom she had emailed prior and

1 Anthony Olivo - Direct
2 the address as well as the extension would
3 automatically populate in that c.c. address line."

4 A. Are you talking about -- right. So
5 we would not have any way of knowing which one was
6 which or how that occurred --

7 Q. So that was only --

8 A. -- to answer your question.

9 Q. So that is only speculative, then; is
10 that right?

11 A. It's speculative with respect to
12 which one of those occurred but it's not
13 speculative in how those recipients got in that
14 c.c. line.

15 Q. But wouldn't, if she had just hit
16 Reply All or Reply, if she had hit Reply All or
17 Reply, wouldn't they have been -- without typing
18 anything, wouldn't they have been there?

19 A. That is not accurate and the reason
20 it's not accurate, had she hit Reply All,
21 Mr. White would have also been a recipient of that
22 email. The only way that he was not a recipient
23 of the email response from Ms. Ziegelbauer is if
24 she only hit Reply, which is why it was addressed
25 to Ms. Broderick and not Mr. White.

1 Anthony Olivo - Direct

2 Q. So she only hit --

3 A. And so by hit --

4 Q. Go ahead.

5 MR. SHAW: Can he finish his
6 testimony?

7 Q. I didn't know you weren't done. Go
8 ahead.

9 THE HEARING OFFICER: Are you
10 finished, Mr. Olivo?

11 A. I was just trying to clarify. So
12 Mrs. Walsh indicated that she could have done it
13 by hitting the Reply or Reply All, that's not an
14 accurate statement.

15 The only way that could have happened
16 for it to be addressed to Ms. Broderick is if she
17 hit Reply because the email was sent on behalf of
18 Ms. Broderick. So by hitting Reply, you would
19 have to have physically either typed in the entire
20 email address or started to type it in at which
21 point it would have been autofilled in the c.c.
22 line. If she had hit Reply All, Mr. White would
23 also have been a recipient of the email response,
24 if that makes sense.

25 Q. But there's no indication that you

1 Anthony Olivo - Direct
2 have that Mrs. Ziegelbauer did hit Reply All.
3 It's likely she just hit Reply from what you are
4 saying?

5 MR. SHAW: Objection. He's
6 testified to his knowledge of how it
7 would happen.

8 MS. WALSH: No.

9 Q. But you have no knowledge whether she
10 hit Reply or Reply All; is that right?

11 THE HEARING OFFICER: No, he
12 said that's not accurate.

13 A. No.

14 Q. I'm sorry. You're saying she hit
15 Reply; is that accurate?

16 A. Yes, I'm saying that she did not hit
17 Reply All. That's not an option in these
18 circumstances.

19 Q. Right. So you're saying that she hit
20 Reply but you have no knowledge that anything
21 autofilled anything or she typed in anything,
22 right?

23 A. That's incorrect. The only way for
24 the other people to have been added to the c.c.
25 line in the email which is your Exhibit 6, where

1 Anthony Olivo - Direct
2 it's addressed to Ms. Broderick and then it c.c.'s
3 the 2021 Board of Education and Ms. Kristine
4 DiFrancesco, the only way they would have gotten
5 into the c.c. line is if they were placed in
6 there. She -- if she had hit Reply All, everyone,
7 including Mr. White, would have been included in
8 the email.

9 So by hitting Reply, she's only
10 replying to Ms. Broderick, and then the c.c.
11 individuals or email addresses would have had to
12 have been added into that.

13 Q. But how is that true if there's a
14 federation and -- a delegation from Jeff White to
15 Ms. Broderick? Wouldn't that -- wouldn't that
16 cover the -- doesn't that explain why Jeff White
17 is not in the c.c. 'cause he's already --

18 A. No.

19 Q. -- she's responding to him?

20 A. No. I think that that's a very good
21 question. So let me clarify.

22 The delegation would have had to have
23 been from Ms. Broderick to Mr. White, not vice
24 versa. In order for Mr. White to author an email
25 on behalf of Ms. Broderick there would have had to

1 Anthony Olivo - Direct
2 have been some delegation from her to him to do
3 that. By doing so, he authored the email on
4 behalf of Ms. Broderick, which is what we're
5 looking at here on the screen, and then, he copies
6 in the 2021 Board of Education, who I don't have
7 any way of telling you who's on the recipient list
8 without getting behind it, and then
9 Ms. DiFrancesco.

10 So when someone received that email,
11 a Board of Ed member or Ms. DiFrancisco, if they
12 hit Reply All, Mr. White would have been included
13 in the response or the reply. If they just hit
14 Reply, Ms. Broderick would be the only one to get
15 that email unless someone puts in a c.c. recipient
16 or in this case two c.c. recipients, which is in
17 your No. 6.

18 So the delegation or federation, if
19 you want to call it that, but the delegation is
20 from Ms. Broderick to Mr. White; that's how he
21 authored this email on her behalf.

22 Q. Okay. So I think -- did the person
23 who did the analysis of the email confirm this?
24 Did you speak to him about this, to Michael --

25 A. Yes.

1 Anthony Olivo - Direct

2 Q. -- Tillery?

3 All right. Just two more questions,
4 I think.

5 At the end of your report, in
6 District 7, you said, It's suggested that Tuxedo
7 Union Free District have a comprehensive analysis
8 conducted of delegations, federations and server
9 rules regarding the exchanges of email federation
10 particularly with emails not specifically
11 affiliated, i.e., emails sent. And why did you
12 suggest this?

13 A. Um, basically as a security protocol,
14 to make sure that there's no inaccurate or
15 inadvertent delegations or federations between
16 anyone with a Tuxedo School District address and
17 anyone outside. So going back to your previous
18 statement when you mentioned that Mr. White
19 delegated to Broderick, there was nothing that
20 indicated that happened. In this case,
21 Ms. Broderick delegated to Mr. White, but we
22 suggested that as a cybersecurity protocol to make
23 sure that there is nothing of that nature from
24 anyone in the school district to anyone outside
25 the school district.

1 Anthony Olivo - Direct

2 Q. Okay. And we hadn't heard the term
3 server rules before in this report. Can you
4 explain what server rules you're referring to?

5 A. So basically a server rule is what is
6 set up on the District's server that allows anyone
7 to send a group -- so for instance, in this
8 circumstance, by responding to the Board of
9 Education, each one of the individual people
10 underneath that BOE email gets an email. That's a
11 server rule. That's something that's set up on
12 the server. So you send the email to one address
13 and multiple individuals get that.

14 So we suggested that those are
15 reviewed as well to make sure that there's no
16 people who are no longer with the school district
17 or something of that nature from a security
18 perspective.

19 Q. And do you know if that has happened,
20 if there was an analysis done?

21 MR. SHAW: Objection, relevance
22 at this time.

23 MS. WALSH: I'll -- I think it's
24 relevant.

25 THE HEARING OFFICER: Well,

1 Anthony Olivo - Direct
2 overruled.

3 Do you know, Mr. Olivo, if there
4 was an analysis done?

5 THE WITNESS: I do not know.

6 Q. And has anyone contacted you in any
7 way in regard to the analysis, any analysis?

8 A. No.

9 MS. WALSH: I have nothing
10 further.

11 THE HEARING OFFICER: Do you
12 have any questions, Mr. Shaw?

13 MR. SHAW: I don't.

14 THE HEARING OFFICER: Okay.
15 Mr. Olivo, thank you very much for your
16 time. You're excused as a witness, so
17 we're going to ask you to leave the
18 meeting.

19 THE WITNESS: Okay. Thank you.

20 THE HEARING OFFICER: Now, do we
21 want this sent? Do we have a copy of
22 this document sent to us?

23 (Anthony Olivo is excused as a
24 witness and exits the hearing
25 virtually.)

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Anthony Olivo - Direct

MS. WALSH: I think we have a
copy, but I haven't gotten it yet,
because my email isn't coming in.

THE HEARING OFFICER: What time
is it and how much time do you want to
eat and what do we have left?

It is 1:36, eight minutes.

(Lunch recess taken at
1:36 p.m.)

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Proceedings

AFTERNOON SESSION

(Time noted: 2:00 p.m.)

(Alyssa Horneff is called as a witness and takes the witness stand.)

THE HEARING OFFICER: We are back on the record. Good afternoon, we're back on the record. We've had a short lunch break and we have our next witness, Ms. Alyssa Horneff.

Ms. Horneff, would you raise your right hand, please.

Do you swear to tell the truth and the whole true and nothing but the truth with respect to the testimony that you're about to give this afternoon?

THE WITNESS: I do.

THE HEARING OFFICER: Okay, Ms. Walsh, she's your witness.

MS. WALSH: Thank you.

(Continued on next page)

1 Alyssa Horneff - Direct

2 WHEREUPON, .

3 ALYSSA HORNEFF,

4 called as a witness herein, having

5 been first duly sworn, is examined

6 and testifies as follows:

7 DIRECT EXAMINATION

8 BY MS. WALSH:

9 Q. Ms. Horneff, thank you for being
10 available today.

11 How long have you served on the
12 board?

13 A. Since July 1st, 2021.

14 Q. Have you yet participated in the
15 mandated Board of Education training?

16 A. I have not fully completed it yet.

17 Q. Okay. You're in the process of
18 completing it though?

19 A. Yes.

20 Q. Have you had any training yet on the
21 Board of Edu- -- standards for Board of Education
22 removal or --

23 (Court reporter clarification)

24 THE HEARING OFFICER: You're
25 speaking quickly and it's hard to hear.

1 Alyssa Horneff - Direct

2 Q. Have you had training yet as part of
3 your mandated training on the standards for
4 removal of a board member by a Board of Education
5 or the Commissioner?

6 A. I don't believe so.

7 Q. And could you just tell me a little
8 bit about your background. I believe you're a
9 graduate of NYU; is that right?

10 A. Yes, graduated from NYU, a dual
11 degree in business through the Stern School and
12 dance through the Tisch School.

13 Q. And I think -- what is your -- do you
14 have a current employment position outside the
15 home?

16 A. Yes, I work full time as the head of
17 operations at Clearing, which is a telemedicine
18 technology company.

19 Q. When you say telemedicine technology,
20 what is that?

21 A. Yes, telemedicine technology is
22 basically a platform for people in chronic pain to
23 receive pain management care that's acceptable
24 (inaudible) medicine that's prescription strength.

25 Q. Thank you. Ms. Horneff, we had a lot

1 Alyssa Horneff - Direct
2 of testimony about the email which is District
3 Exhibit 6, and we saw in Exhibit F.

4 Did you see the correspondence that
5 Trustee Ziegelbauer, when she sent it, sent on
6 August 9th?

7 A. Yes.

8 Q. And did you see the -- do you recall
9 seeing the correspondence from Jeff White before
10 that?

11 A. Yes.

12 Q. Okay. And did you respond to that?

13 A. No.

14 Q. Was there a reason you didn't
15 respond?

16 A. I did not respond to the email chain
17 because by the time I had seen it, there was an
18 interaction between some board members on that
19 chain.

20 Q. Do you need to look at the email or
21 do you recall it?

22 A. I recall it, but depending on your
23 questions, I might need to --

24 Q. Sure.

25 A. -- have it in front of me.

1 Alyssa Horneff - Direct

2 Q. Do you recall that Mrs. Ziegelbauer
3 did, when she wrote the email to Jeff White, she
4 did write Dear Jeff and then she wrote certain
5 items?

6 A. I'm not sure how she addressed Jeff,
7 but she did directly address Jeff as the recipient
8 of that email.

9 Q. Okay. And did you understand at the
10 time that she did think she was responding to the
11 superintendent when you received it?

12 MR. SHAW: I'm going to object
13 to that unless there's a foundation
14 laid as to how she would have that
15 opinion or that knowledge.

16 Q. Do you need to look at the email or
17 that --

18 A. I can't say anything until the
19 objection...

20 THE HEARING OFFICER: Do you
21 want to go back to the question or are
22 you asking letter do you know...?

23 Q. At the time you received the email --

24 MS. WALSH: I think it's a
25 reasonable question. I don't know --

1 Alyssa Horneff - Direct

2 THE HEARING OFFICER: Well, at
3 this point, we've lost sight of what
4 the question was.

5 MS. WALSH: The question was --

6 SPEAKER: Can she read it back?

7 MS. WALSH: Yeah. Can you read
8 it back? Is that possible?

9 (Record read as follows:

10 "And did you understand at the
11 time that she did think she was
12 responding to the superintendent when
13 you received it?")

14 THE HEARING OFFICER: All right.
15 I'm going to sustain the objection.
16 The question is do you think she knew
17 what she was doing and she can't answer
18 that.

19 MS. WALSH: I'm basing it...

20 BY MS. WALSH:

21 Q. Did you read the email?

22 A. Yes. Did I read Dorothy's email
23 response?

24 Q. Dorothy's email.

25 A. Yes.

1 Alyssa Horneff - Direct

2 Q. And did you see -- I think you stated
3 that it was to the superintendent, correct?

4 A. I answered that I was unclear on how
5 she addressed Jeff but she did address Jeff as a
6 recipient to that email.

7 Q. Okay. Do you recall when you
8 received the email from Jeff White, did you
9 note -- did you know it was from -- who did you
10 think it was from?

11 A. It was from Jeffrey White on behalf
12 of Cairenn Broderick.

13 Q. Did you know that at the time?

14 A. Yes.

15 Q. Did you know that if you responded it
16 would go to Cairenn Broderick?

17 A. Yes.

18 Q. And you did not respond, though,
19 correct?

20 A. No.

21 Q. And how did you -- did you understand
22 that there was a delegation of emails between Jeff
23 White and Cairenn Broderick at the time?

24 A. Yes. My background, I work in
25 operations which oversees all people, HR, IT, and

1 Alyssa Horneff - Direct
2 so I am well-versed in cybersecurity and email
3 systems. So by seeing the "on behalf of," I knew
4 that there delegation and federation within that
5 email within our servers.

6 Q. Did the Board, if you recall, have
7 any discussions about this?

8 A. About what?

9 Q. About the delegation. Did the board
10 have any discussions at any time about the
11 delegation or federation of emails?

12 A. No.

13 Q. So do you know if other board
14 members -- do you have any knowledge of whether
15 other board members were aware of?

16 A. I can't speak to what other board
17 members were aware of.

18 Q. But based on your knowledge if had
19 conversations.

20 A. I think I -- we hadn't had
21 conversations, so...

22 Q. Okay. That's fair.

23 Now, did you review the CSIG
24 report --

25 A. Yes.

1 Alyssa Horneff - Direct

2 Q. -- District Exhibit 7?

3 And this does state there was as
4 delegation of email as you stated you knew
5 already. So was there anything surprising about
6 that report to you?

7 A. In what context? When I read the
8 report?

9 Q. Yes.

10 A. Nothing surprising but I do think
11 that there was components missing based on the
12 audience of that report.

13 Q. And what components -- if you could
14 explain that?

15 A. Yes. They referenced the delegations
16 and federations, and if you have it in front of
17 me, I can point to the section.

18 Q. Yes, we can do that.

19 MR. SHAW: Has the witness been
20 presented with D-6 itself?

21 MS. WALSH: D-7.

22 THE HEARING OFFICER: Yes, D-7.

23 A. In paragraph 3, the report says that
24 "The email sent by Jeff White on August 9th, 2021,
25 at 12:53, on behalf of Cairenn Broderick," so on

1 Alyssa Horneff - Direct
2 and so forth, "indicates that there's a delegation
3 or federation between the two emails."

4 I don't know that the explanations of
5 how federations or delegations is included in this
6 report and should likely be included for the
7 context of the audience board members and whoever
8 is the recipient of your report.

9 Q. So could you describe what you mean
10 by, since you have an expertise in this area,
11 could you describe what you mean by that?

12 A. Yes. So we use the email server
13 Outlook for our Board emails. When you set up an
14 email server, you have certificates are that
15 automatically sent from a security perspective.
16 Depending on what email server you use, Gmail,
17 Outlook, a bunch of any of the other email
18 servers, you maintain from an IT perspective your
19 certificate.

20 When we -- it seems to me, that when
21 we created our Outlook email server, we have a
22 certificate for federations. So that connects us
23 to different organizations. It creates a
24 partnership. Those certificates need to be
25 maintained, they need to be renewed, and then from

1 Alyssa Horneff - Direct
2 that point of having that established as a
3 federation, that allows you to send emails on
4 behalf of people within those federations. So --
5 yes, I'll stop there.

6 Q. So that's the explanation. Do you
7 think it's important for the Board of Education to
8 understand how that works?

9 A. I think it's very important because
10 we've spent now two days discussing this topic and
11 I don't feel that we've really understood how that
12 works from a technology perspective considering we
13 have printed out emails talking about technology
14 instead of actually looking at the technology at
15 hand and see how it functions --

16 Q. So could you just --

17 A. -- to get down to the actual
18 experience of both the recipients, the audience,
19 the players, who did what and how they did it.

20 Q. So could you explain that, then,
21 how -- if you could, what do you think that
22 everyone is missing here?

23 MR. SHAW: I'm going to object
24 to the question. It's so broadly
25 stated --

1 Alyssa Horneff - Direct

2 MS. WALSH: It is broadly
3 stated.

4 MR. SHAW: -- and perhaps off
5 topic for the charges.

6 THE HEARING OFFICER: Okay. Can
7 you narrow it Ms. Walsh?

8 MS. WALSH: Yes. I'll narrow
9 it.

10 BY MS. WALSH:

11 Q. You stated, I think, we're looking at
12 exhibits because this is a hearing, and you said
13 the exhibits don't help us -- don't really tell
14 the picture, they give us -- I'm just paraphrasing
15 here.

16 (Court reporter clarification)

17 Q. The exhibits do not --

18 MS. WALSH: Maybe we could read
19 back the response. That might be
20 better.

21 THE HEARING OFFICER: Slow down
22 a little bit.

23 MS. WALSH: I was trying to go
24 fast to get through it, sorry.

25 THE COURT REPORTER: I

1 Alyssa Horneff - Direct
2 understand but it's a big room and your
3 soft voice is getting lost in the big
4 room.

5 MR. SHAW: I don't see a point
6 in reading back her response which was
7 giving general information about
8 technology systems and how they
9 function. It's far afield from the
10 meat of theses proceedings.

11 THE HEARING OFFICER: Yes. We
12 weren't reading her response. We were
13 reading your question, Ms. Walsh?

14 MS. WALSH: Yes.

15 BY MS. WALSH:

16 Q. I'll go back to your -- I just had a
17 follow-up question from your previous response.

18 You said because this was written for
19 a certain audience there wasn't enough details in
20 this Report of Investigation. Does that mean you
21 thought it wasn't technical enough and could have
22 been explained better?

23 A. I think that the audience that has
24 read this report doesn't fully understand what
25 delegations and federations mean, which is why

1 Alyssa Horneff - Direct

2 we're still talking about it.

3 Q. Okay. And when you saw -- when
4 you -- did there come a time, then, when you did
5 review Dorothy's reply to the email --

6 A. Yes.

7 Q. -- an explanation?

8 A. Yes.

9 Q. And at that point, did you have --
10 did that indicate that she understood anything
11 about delegations or federations?

12 A. I'm just thinking back to --

13 Q. Do you need to look at it? Do you
14 need to look at the --

15 THE HEARING OFFICER: Are you
16 talking about Respondent's F.

17 MS. WALSH: Yes.

18 THE WITNESS: Thank you.

19 A. Are you asking me whether Dorothy
20 mentioned and knew about delegations and
21 federations or are you -- can you clarify the
22 question?

23 Q. So let's look at F. It states, "It
24 was a hundred percent not my intention to exclude
25 Kerry on this email thread."

1 Alyssa Horneff - Direct

2 Does that indicate that at that time
3 she understood there was any kind of delegation or
4 federation?

5 A. I do not know what she knows about
6 technology. However, I know that she does work in
7 the field and is -- in that field. I don't
8 know -- I don't think there's a clear correlation
9 that that statement shows her knowledge of
10 delegations and federations.

11 Q. But she doesn't mention anything
12 about delegations or federations in her response.

13 MR. SHAW: The document speaks
14 for itself.

15 THE HEARING OFFICER: Sustained.

16 Q. And did you understand upon reading
17 this that this was an inadvertent disclosure, that
18 she was...

19 A. Yes.

20 Q. Do you recall the testimony, if you
21 recall, of Ms. Broderick in hearing?

22 A. Yes.

23 Q. And do you recall if in her testimony
24 she stated she gave permission for Jeff White to
25 send email on her behalf?

1 Alyssa Horneff - Direct

2 A. I recall that she did talk about
3 that, yes.

4 Q. Didn't she actually testify that she
5 didn't know how it happened? Do you recall?

6 A. Yes. She was not -- she said she did
7 not know how that email was sent on her behalf.

8 Q. But if she gave permission, shouldn't
9 should she have awareness of how it was sent?

10 A. No --

11 MR. SHAW: Objection to
12 relevance of how --

13 THE HEARING OFFICER: Sustained.
14 Sustained. We're talking about
15 something that someone else might be
16 able to testify to but not this
17 witness. You can't get into the head
18 of another person to talk about why
19 they did something.

20 Q. When you reviewed the email from
21 Mrs. Ziegelbauer and she said this was a mistake,
22 did you question that?

23 MR. SHAW: I'm going to object
24 to where it said that this is a
25 mistake.

1 Alyssa Horneff - Direct

2 MS. WALSH: It says it on
3 page --

4 THE HEARING OFFICER: Sustained.

5 Q. It says I made a mistake on page 2.

6 THE HEARING OFFICER: You can
7 asked Ms. Ziegelbauer about that.

8 MS. WALSH: But -- okay, I'll
9 move on.

10 Q. Ms, Horneff, do you supervise
11 employees on your job in connection with sending
12 emails?

13 A. Yes.

14 Q. And have you encountered employees
15 who have inadvertently sent an email?

16 A. Yes.

17 Q. And has it happened in the context of
18 delegations or federations?

19 A. No. But I have overseen the server
20 settings of my email server in relation to
21 delegations and federations.

22 Q. And you said you did have employees
23 who inadvertently sent an incorrect email?

24 MR. SHAW: Asked and answered.

25 MS. WALSH: I know. I'm giving

1 Alyssa Horneff - Direct
2 background.

3 Q. And then my next question is, were
4 they terminated?

5 MR. SHAW: Objection, relevance
6 to these proceedings.

7 THE HEARING OFFICER: Sustained.

8 And, Ms. Walsh, please refrain
9 from giving background to a question.
10 Ask the question. The witness can tell
11 you what they know about the subject.

12 MS. WALSH: She'd answered the
13 question. I was just reminding her
14 what she stated.

15 Q. So what actions did you take, if any?

16 A. I went into the settings of my email
17 server, both on an individual level as well as an
18 ORIC level, and revised and audited all of my
19 system settings to make sure that the system was
20 operating in the way that I intended for both
21 internal and external parties.

22 Q. And what about for the employees who
23 made the mistakes, what actions, if any, did you
24 take?

25 MR. SHAW: Objection.

1 Alyssa Horneff - Direct

2 THE HEARING OFFICER: Sustained.

3 I've already sustained this objection
4 about the questioning of how she
5 handled employees in other situations.

6 BY MS. WALSH:

7 Q. Ms. Horneff, back to District 7, do
8 you see at the end of the report that he makes the
9 recommendations?

10 A. Yes.

11 Q. And do you agree those are important
12 to follow up on?

13 A. Yes, I agree strongly that they are
14 the correct action items.

15 Q. And why are they important to you
16 from your perspective?

17 A. They are important from this
18 perspective, because I believe when you're going
19 to and when you receive an email on behalf of, I
20 don't know that there's, one, been enough focus on
21 how our technology is audited and built because
22 most of the delegations and federations are
23 automatic. And I also think that there's not
24 enough training on how our systems work, where
25 there's flags, where there's warnings, where

1 Alyssa Horneff - Direct
2 there's other pieces that may empower our teams,
3 our students and everyone to use technology
4 correctly.

5 Q. And if there's the federations that
6 you're talking about that could be -- risk
7 revealing confidential information; is that right?

8 A. Yes, correct. It's anything tied to
9 your email server is a cybersecurity risk if it's
10 not done intentionally. Not to say that this was
11 not done, you know, intentionally this one.

12 Q. And did you or any board member raise
13 this to the Board to follow up on, to have a
14 comprehensive analysis done of delegations,
15 federations, and server rules?

16 MR. SHAW: Objection, relevance
17 to the proceedings.

18 THE HEARING OFFICER: I'm going
19 to sustain the objection. The document
20 making the recommendations speaks for
21 itself. They have received that.

22 MS. WALSH: I had a follow-up
23 question.

24 Q. Do you recall if Ms. Ziegelbauer made
25 any comments about that in public meetings?

1 Alyssa Horneff - Direct

2 MR. SHAW: Objection, relevance.

3 THE HEARING OFFICER: Sustained.

4 MS. WALSH: Well, how is that
5 not relevant? If these are charges and
6 they've had an impact on her and --

7 THE HEARING OFFICER: Because
8 we're talking about a snapshot in time.
9 These two charges deal with two actions
10 that occurred or didn't occur and the
11 Board has to evaluate, first of all,
12 whether they occurred and secondly,
13 whether they warrant removal.

14 We're not talking about what the
15 Board has done since the horse left the
16 barn. That's after the fact.

17 MS. WALSH: Understood.

18 BY MS. WALSH:

19 Q. Ms, Horneff, the Executive Session on
20 September 15th, do you recall which one we're
21 talking about? Do you need to look at the
22 document?

23 A. I believe I recall.

24 Q. Okay. And did you attend that?

25 A. Yes.

1 Alyssa Horneff - Direct

2 Q. And from your perspective, what was
3 the purpose of the Executive Session?

4 A. I believe the Executive Session on
5 the 15th was in regards to meeting on a personnel
6 matter.

7 Q. Do you need to look at a document?

8 A. I can, yes.

9 Q. Okay.

10 A. That could be help. I am not sure
11 what questions you'll ask.

12 MS. WALSH: If we could give
13 Ms. Horneff, just to eliminate
14 confusion, it's the charges on -- I'm
15 sorry, the Executive -- I'm sorry.

16 THE HEARING OFFICER: Are you
17 referring to an exhibit, Ms. Walsh?

18 MS. WALSH: Yes, I am.

19 THE HEARING OFFICER: What is
20 it?

21 MS. WALSH: On September 15th,
22 we have -- I'm just blanking for a
23 minute.

24 MR. SHAW: District 8, that is
25 the subject to in-camera review, not in

1 Alyssa Horneff - Direct
2 evidence.

3 MS. WALSH: We could look at 8,
4 for one.

5 MR. SHAW: Not in evidence.

6 MS. WALSH: Not in evidence.

7 THE HEARING OFFICER: It's not
8 in evidence.

9 BY MS. WALSH:

10 Q. Ms. Horneff, was this the exhibit --
11 not exhibit -- the Executive Session where
12 you reviewed -- where the Muenkel report
13 investigation was discussed?

14 A. I believe so.

15 Q. And do you remember how this was
16 noticed to the public?

17 MR. SHAW: Objection, relevance.

18 MS. WALSH: It could be
19 relevant. It's relevant to
20 Mrs. Ziegelbauer because she didn't
21 know that it was to be --

22 THE HEARING OFFICER: I'll allow
23 the witness to answer.

24 MS. WALSH: Okay.

25 A. How the Executive Session was noticed

1 Alyssa Horneff - Direct
2 or how the meeting was noticed?

3 Q. The meeting and Executive Session
4 were noticed to the public.

5 A. I believe it went through our normal
6 route, but I could be mistaken.

7 Q. But you don't remember what the
8 notice said.

9 A. I don't recall.

10 Q. And were you aware before the meeting
11 that Mr. White was going to be discussing the
12 investigation of the confidential information
13 release?

14 A. No.

15 Q. You were not, okay.

16 Had you had any conversations about
17 this before with anybody about this investigation?

18 A. Did I have any conversations about
19 the investigation?

20 Q. Yes.

21 A. Yes.

22 Q. Okay. And with whom?

23 A. We spoke as a Board around having
24 this investigation done.

25 MS. WALSH: And we have a

1 Alyssa Horneff - Direct
2 document that's marked as ID, I
3 understand it's not in evidence, but it
4 is something that the Board did review,
5 so I think it is relevant to look at
6 the July 20 letter.

7 THE HEARING OFFICER: You can
8 ask her questions about what she
9 recalls.

10 MS. WALSH: Okay.

11 BY MS. WALSH:

12 Q. Do you recall around the time of
13 July 20th reviewing a letter from counsel
14 regarding certain allegations?

15 A. I don't recall in full confidence
16 what was included in that letter.

17 Q. And there were concerns about a leak
18 of confidential information, is that fair to say?

19 A. Within that letter?

20 Q. Yes.

21 A. Yes.

22 Q. Now, and the Board did vote for the
23 investigation?

24 A. I -- we discussed. I don't remember
25 if we voted.

1 Alyssa Horneff - Direct

2 Oh, yes, we did vote, yes.

3 MS. WALSH: Could I -- whether
4 we are going to admit it or not, I
5 would like to show the parent -- the
6 parent -- the witness Exhibit E.

7 THE HEARING OFFICER: You show
8 it to Mr. Shaw and to me first, please.

9 MS. WALSH: It's the July 20th,
10 it's Respondent E, ID only. It's the
11 letter you had not had in evidence.

12 MR. SHAW: That's July 20th from
13 you to me, right?

14 MS. WALSH: Yes.

15 MR. SHAW: Yeah, it's marked but
16 it is not in evidence.

17 MS. WALSH: Not in evidence.

18 MR. SHAW: Correct.

19 MS. WALSH: May I show this to
20 the witness?

21 THE HEARING OFFICER: For what
22 purpose? Was she privy to it?

23 MS. WALSH: The Board did review
24 it, is my understanding. I was told
25 that the Board reviewed it. I don't

1 Alyssa Horneff - Direct
2 know, and so I wanted to ask if the
3 Board reviewed it and if this prompted
4 anything.

5 THE HEARING OFFICER: Well,
6 we're not letting it into evidence so
7 I'm hesitant to have the witness look
8 at it.

9 MR. SHAW: I have a request or a
10 proffer. If she were to review that,
11 how would it reflect upon the gravamen
12 of the charge?

13 MS. WALSH: Because it has to do
14 with the investigation and what the
15 purpose was and what the understanding
16 was in relation to the charge.

17 THE HEARING OFFICER: But,
18 Ms. Walsh, this is a letter from you,
19 right, to Mr. Shaw?

20 MS. WALSH: It's a letter from
21 my client on behalf -- me on behalf of
22 my client.

23 THE HEARING OFFICER: I'm sorry.
24 I can't accept that. It's a letter
25 from you to another lawyer setting

1 Alyssa Horneff - Direct

2 forth your argument --

3 MS. WALSH: No.

4 THE HEARING OFFICER: -- and

5 your position --

6 MS. WALSH: No.

7 THE HEARING OFFICER: -- on

8 behalf of your client.

9 MS. WALSH: No, no. That's not
10 it at all. It was done to prompt --

11 THE HEARING OFFICER: That's the
12 way I read.

13 MS. WALSH: It was done to
14 request an investigation on behalf of
15 my client, and that's a different
16 issue.

17 THE HEARING OFFICER: So do you
18 want the witness to leave the room and
19 we can discuss a proffer? What are you
20 expecting this witness to add?

21 MS. WALSH: I'll just ask her a
22 question.

23 BY MS. WALSH:

24 Q. Do you recall that there was an
25 investigation requested by Ms. Ziegelbauer on the

1 Alyssa Horneff - Direct
2 release of confidential -- request of an
3 independent third-party investigation to determine
4 whether and how confidential student information
5 was discussed in the context of a meeting of the
6 District special education staff and the guidance
7 counselor, and how they reached the board
8 president and by whom? Do you recall there was an
9 investigation requested?

10 MR. SHAW: Could you slow down
11 for a second. Could we read back the
12 question before the compounding started
13 to occur?

14 THE HEARING OFFICER: We can
15 try.

16 (Record read)

17 THE HEARING OFFICER: So it is
18 seriously compound question. Do you
19 want to break it down?

20 MS. WALSH: I'll break it down.

21 Q. Do you remember whether there was an
22 investigation requested?

23 A. Yes.

24 Q. And do you remember by whom?

25 A. By Dorothy.

1 Alyssa Horneff - Direct

2 Q. Okay. And I'm reading this from her
3 request, so were you aware that an investigation,
4 that there was a request for an investigation
5 conducted by independent third party?

6 A. Yes.

7 Q. Okay. And she requested the
8 investigation -- were you aware that she requested
9 the investigation to determine when and how
10 confidential student information that was
11 discussed in the context of a special education
12 meeting with District special education staff and
13 the guidance counselor relate to the current board
14 president and by whom?

15 A. That's a very loaded question with a
16 lot of detail. I believe that's generally
17 correct, from my recollection.

18 Q. And do you recall reviewing a letter
19 in an Executive Session from counsel?

20 MR. SHAW: Objection, relevance.

21 THE HEARING OFFICER: Sustained.

22 We have already gone over this.

23 MS. WALSH: Okay.

24 MR. SHAW: And we know that the
25 report was issued.

1 Alyssa Horneff - Direct

2 THE HEARING OFFICER: Yes. So
3 clearly it was requested.

4 BY MS. WALSH:

5 Q. Were you aware that the parent also
6 requested to receive a copy by the final -- of the
7 final report by the independent investigator?

8 THE HEARING OFFICER: If you
9 remember.

10 Q. If you remember.

11 A. I do not remember.

12 Q. Did you know that Ms. Ziegelbauer
13 also asked what personnel action, if any, would be
14 taken by the District?

15 THE HEARING OFFICER: Did you
16 know whether.

17 MS. WALSH: Whether, if any,
18 right.

19 Q. That the parents requested --

20 THE HEARING OFFICER: You're
21 assuming facts not in evidence --

22 MS. WALSH: No, I --

23 THE HEARING OFFICER: -- by the
24 way you're asking the question, that's
25 the problem.

1 Alyssa Horneff - Direct

2 MS. WALSH: I asked whether
3 Ms. Horneff was aware that the parent
4 requested about what personnel action,
5 if any, would be undertaken by the
6 District.

7 Q. Does that make sense?

8 A. I remember that it was an
9 outcome-based request.

10 Q. Okay. Let's finish.

11 So then on September 15th, you did
12 receive the report, is that -- the report, the
13 Muenkel report; is that accurate?

14 A. Yes.

15 Q. And do you remember if Mr. White
16 before he gave out the report, what he said?

17 A. Dr. White stood up. We were in the
18 music room, and he had papers in his hand and he
19 said, to the effect, that on direction of counsel,
20 he had something for us to review. He was to give
21 it out. We were supposed to review it, read
22 through it. We could keep it if we wanted to use
23 it as a discussion -- you know, as we discussed it
24 but we must hand it back to him. No one was to
25 leave without returning it.

1 Alyssa Horneff - Direct

2 MR. SHAW: Would you read back
3 the last part of the response.

4 (Record read)

5 Q. And did you understand that, based on
6 your knowledge at the time that -- was there any
7 written policy that will required return of the
8 report?

9 A. No, not that was indicated.

10 Q. Was there any law that required the
11 return of the report?

12 A. Not that I'm aware of.

13 Q. And do you have any evidence whether
14 Mrs. Ziegelbauer did release any information in
15 the report?

16 A. I do not.

17 Q. I'm sorry. It couldn't hear you.

18 A. I do not.

19 Q. So you have no knowledge or
20 documentation that she released any confidential
21 information from that Executive Session; is that
22 accurate?

23 A. Correct.

24 Q. So is it your understanding that
25 because the superintendent tells you you have to

1 Alyssa Horneff - Direct

2 give back a report, a board member does have to
3 give it back as a member of the board?

4 A. I understood in that meeting that he
5 was acting at direction of our counsel and as a
6 board member, I like to work in partnership with
7 the board and our counsel to hit our goals and
8 work.

9 I'm a new board member and so I had
10 assumed that when he had given it to us and asked
11 for it back that was what I was agreeing to.

12 Q. And when you say assumed, that was
13 just based on his direction and not anything else,
14 is that fair to say?

15 A. He did ask did everyone understand
16 that request and by saying yes, I understood and
17 committed to that.

18 Q. Did you hear Mrs. Ziegelbauer agree
19 to give it back at any point?

20 A. I heard voices. I cannot --

21 Q. Okay.

22 A. -- attest to whose voices those were.

23 Q. Okay. So Trustee Horneff, if I
24 mentioned I was on a board for nine years before,
25 and I was cleaning out my office, I found --

1 Alyssa Horneff - Direct

2 MR. SHAW: I'm going to
3 object --

4 Q. -- a highly confidential document --

5 MR. SHAW: -- to the
6 background --

7 MS. WALSH: No. I think it's
8 important.

9 MR. SHAW: -- of this question.

10 MS. WALSH: I think it's
11 relevant. It's a highly
12 confidential --

13 THE HEARING OFFICER: Well, you
14 may think it's relevant but we have an
15 objection.

16 What's the nature of the
17 objection?

18 MR. SHAW: That counsel is
19 relating to her experiences on the
20 Board of Education that she was on for
21 nine years and the way that they
22 conducted their business with respect
23 to certain matters that are as yet
24 undefined and they're unrelated to the
25 protocols of this board on that

1 Alyssa Horneff - Direct
2 evening, September 15th.

3 THE HEARING OFFICER: Ms. Walsh,
4 would you like to be heard.

5 MS. WALSH: Yes, I would. There
6 is a basic standard for official
7 misconduct. There are precedents,
8 there's standards, even though it is
9 defined vaguely under 1709(18), but
10 there is precedent and there is
11 understanding.

12 So if I say that I retained a
13 report from Executive Session in 2008
14 that I was told to give back and I
15 needed it and I kept it and I found it
16 in my file, gosh, 12 years later, it
17 was not released anywhere, I want to
18 know if Ms. Horneff and the others
19 think I should have been subject to
20 official misconduct and removed from
21 the Board because of that.

22 THE HEARING OFFICER: I'm going
23 to sustain the objection. It's
24 completely irrelevant.

25 MS. WALSH: I don't think it is.

1 Alyssa Horneff - Direct

2 THE HEARING OFFICER: Well, it
3 is irrelevant because it has nothing to
4 do with this particular school
5 district. Whatever the rules are,
6 whatever the way this place -- every
7 school district has its own customs,
8 its own rules. Yes, there are laws
9 that govern it, but that doesn't mean
10 that the way another school district
11 operated or a board member holding a
12 confidential report for twelve years in
13 her home has anything to do with what
14 another board member would have done
15 with that report nor would their
16 opinion about how you handled it be
17 relevant for this hearing.

18 MS. WALSH: Well, I do think, I
19 just wanted to say, I do think that
20 when there's precedent, when there's
21 Commissioner's decisions people do look
22 at that for guidance.

23 THE HEARING OFFICER: I've ruled
24 on this, and we'll move on.

25 MS. WALSH: Okay.

1 Alyssa Horneff - Direct

2 (Continued on next page)

3 BY MS. WALSH:

4 Q. So I just wanted to ask questions
5 about the charges against Mrs. Ziegelbauer.

6 When did the Board decide to prefer
7 charges?

8 A. Shortly after that meeting.

9 Q. And, were there any conversations you
10 had with other board members at the time?

11 A. Regarding?

12 Q. The charges?

13 A. At the time that they were issued or
14 afterwards?

15 Q. When they were issued.

16 A. Um, not that I can recall any direct
17 conversations about the charges being brought on.

18 Q. And, was there any written
19 correspondence between board members about
20 bringing the charges before September 24th?

21 A. I don't recall.

22 Q. Okay. So was it just one meeting in
23 Executive Session on September 24th where there
24 was a decision on charges made?

25 A. In regards to the communications

1 Alyssa Horneff - Direct
2 around the charges?

3 Q. Yes.

4 A. Um, I don't recall to be able to say
5 yes or no. I get a lot of emails, so I would have
6 to look into my inbox.

7 Q. Now, there was a vote on the board
8 resolution, do you remember, September 24th? Do
9 you need to look at it?

10 A. Um, I'm unsure if I need to look at
11 it because I'm unsure of your question.

12 THE HEARING OFFICER: What's the
13 question.

14 Q. Do you recall what the resolution
15 stated, the public resolution?

16 A. That we would be bringing charges.

17 Q. Do you remember what policies were
18 referenced?

19 A. Not off the top of my head, no.

20 MS. WALSH: Could I ask for the
21 witness to look at the exhibit, which
22 is either A or Joint 1.

23 THE HEARING OFFICER: It's not
24 District A because they are not
25 letters.

1 Alyssa Horneff - Direct

2 What exhibit are you referencing?

3 MS. WALSH: Joint 1, it's the
4 appointment of you and the...

5 THE HEARING OFFICER: Is there a
6 question on the floor?

7 MS. WALSH: Yes.

8 BY MS. WALSH:

9 Q. Is this the resolution that you voted
10 on?

11 A. Yes.

12 Q. Okay. And did you vote in favor of
13 it?

14 A. Yes.

15 Q. And what is Board Policy 1315?

16 A. I do not know. 1315?

17 Q. I'm sorry. I couldn't hear.

18 THE HEARING OFFICER: She said
19 she doesn't know 1315.

20 Q. Was that important for you to
21 understand upon voting on this?

22 A. I don't know. I'm a little unclear.

23 Q. I'm sorry. I'm sorry?

24 A. I'm a little unclear.

25 Q. Okay. So you were not clear on what

1 Alyssa Horneff - Direct
2 policy 1315 was?

3 A. No. I don't believe so.

4 Q. Okay. Have you taken any subsequent
5 action to learn what the policy states?

6 A. Can I ask a question?

7 Q. Yes.

8 A. 1315 in terms of this document?

9 Q. The charges state that "Be Resolved
10 the Board hereby appoints Carol Hoffman to conduct
11 a hearing pursuant to District Policy 1315 and
12 Education Law 1709." So...

13 A. Well, I have District Policy 1301 on
14 this one.

15 THE HEARING OFFICER: Because
16 you're looking at the resolution
17 appointing me but you asked me to give
18 her the charges.

19 MS. WALSH: Oh, no. I meant --
20 I'm sorry. I meant --

21 THE HEARING OFFICER: So we're
22 giving the wrong exhibit? What is it
23 that you want me to give to her?

24 MS. WALSH: Joint 1. No. This
25 is what I have.

1 Alyssa Horneff - Direct

2 MRS. ZIEGELBAUER: That's not
3 Joint 1.

4 MS. WALSH: Joint 1, I'm sorry.

5 MRS. ZIEGELBAUER: This is
6 Joint 1.

7 MS. WALSH: No, I
8 thought that -- okay. No. I asked
9 her --

10 THE HEARING OFFICER: Ms. Walsh,
11 I asked which exhibit --

12 MS. WALSH: I said Respondent A.

13 THE HEARING OFFICER -- would you
14 like the witness to have?

15 MR. SHAW: I said Respondent A.

16 THE HEARING OFFICER: Excuse me,
17 Ms. Walsh, which exhibit would you like
18 the witness to look at.

19 MS. WALSH: Respondent A.

20 MR. SHAW: I'd like to suggest
21 that the documents speak for
22 themselves, the charges refer to
23 Policy 1301 that exists. The
24 resolution erroneously refers to a
25 policy that doesn't exist. The Board

1 Alyssa Horneff - Direct
2 and the consultant herself will have to
3 determine the relevance of that. To
4 have this witness questioned for 15 or
5 20 minutes about that seems to be an
6 unproductive use of time.

7 THE HEARING OFFICER: Is that
8 where you're heading, Ms. Walsh, the
9 fact that 1315 and 1301 and 1310 all
10 got mixed up? Is that what you're --

11 MS. WALSH: It's a concern
12 because it's -- I mean.

13 THE HEARING OFFICER: I'll make
14 a suggestion. Why don't you ask her
15 the question, you were present that
16 night, you voted on this; did anybody
17 discuss the policy with you? That's
18 the point of it.

19 MS. WALSH: Right.

20 THE HEARING OFFICER: Because
21 the rest of it has been cleared up by
22 the history here with an acceptance of
23 the fact the wrong board policy number
24 was denoted initially and has been
25 corrected, am I wrong?

1 Alyssa Horneff - Direct

2 MS. WALSH: It was not
3 corrected, no.

4 MR. SHAW: Well, in the charges
5 it is correct.

6 THE HEARING OFFICER: Yes.

7 MR. SHAW: The error was in the
8 number in the resolution.

9 THE HEARING OFFICER: Right.

10 MR. SHAW: The hearing is
11 conducted under 1709(18) of the Ed Law.

12 MS. WALSH: But --

13 MR. SHAW: The reference to 1315
14 is irrelevant.

15 BY MS. WALSH:

16 Q. Ms. Horneff, you're a technical
17 person. Don't you think it's important to vote on
18 the right policy number when the Board is voting a
19 resolution?

20 A. I do. But in all due respect, I also
21 appreciate getting the right exhibit to look at.

22 Q. I did not. I said Respondent A as
23 well.

24 A. As much as, yes, I'm very detail
25 oriented, but I would appreciate it if you would

1 Alyssa Horneff - Direct

2 be also in questioning me.

3 Q. I am being detail oriented, and --

4 THE HEARING OFFICER: Okay,

5 okay. Enough. No more argument.

6 Do we have a question? We're

7 looking for Respondent's A?

8 MS. WALSH: Yes, Respondent A.

9 Q. So could you just tell us what you
10 were voting on when you voted, why you voted in
11 favor of the resolution?

12 A. Repeat the question?

13 Q. Yes. Why did you vote in favor of
14 the resolution?

15 A. I voted in favor of the resolution
16 because of the charges we discussed and I believed
17 that there was more to explore.

18 Q. Do you want to...

19 MS. WALSH: Does she need to
20 have the policy? If we could give her

21 A.

22 THE HEARING OFFICER: You were
23 asking her a question and she was
24 giving you an answer. Do you want me
25 to give her a different exhibit?

1 Alyssa Horneff - Direct

2 MS. WALSH: She wants to see
3 Exhibit A. Yes, she would like to see
4 Respondent's Exhibit A because we had
5 the wrong policy.

6 MR. SHAW: I don't know that she
7 wanted to see it at this time.

8 THE WITNESS: Could I clarify?

9 THE HEARING OFFICER: No. I
10 want a question from you and we're
11 going to give the question to the
12 witness and we're going to find out if
13 you need an exhibit.

14 Our Exhibit R-A is the one we
15 started out with several hours ago with
16 a problem. So let's make sure we have
17 the right one.

18 MS. WALSH: It's the charges
19 from September 24th.

20 THE HEARING OFFICER: No, that's
21 not R-A. Now you're telling me
22 Respondent's A. That's the appointment
23 of me.

24 MS. WALSH: Yes, it's the same
25 one. That's the one, yes.

1 Alyssa Horneff - Direct

2 SPEAKER: That's the whole mixup
3 on the exhibits.

4 MS. WALSH: It's the charges
5 because the charges were voted on.
6 It's the resolution appointing you.

7 THE HEARING OFFICER: Let's go
8 off the record.

9 (Discussion off record)

10 BY MS. WALSH:

11 Q. So you said this merited further, you
12 thought this merited further explanation; is
13 that --

14 A. Exploration.

15 Q. Exploration, yes. And that's why you
16 thought it would -- you wanted to have a hearing,
17 is that -- you thought it would be necessary to
18 explore and investigate?

19 A. I believe I answered that.

20 Q. Yes, okay. And based on what you
21 learned in this hearing, do you believe that there
22 was a willful -- that Trustee Ziegelbauer did
23 willfully disobey any decision or order or
24 regulation of the Board of Regents, for example?

25 MR. SHAW: I'm going to object

1 Alyssa Horneff - Cross
2 to that. This witness sits as not only
3 a witness but also a judge, needs to
4 have the whole proceeding laid out, and
5 then has to make a determination. This
6 is premature to ask her to make a
7 judgment that would be essentially her
8 consideration of the outcome of these
9 proceedings.

10 THE HEARING OFFICER: I'm going
11 to sustain that objection.

12 MS. WALSH: Okay. I think
13 that's all I have unless Mr. Shaw --

14 (Announcement of dismissal over
15 the public address system.)

16 THE HEARING OFFICER: Mr. Shaw,
17 you're dismissed.

18 (Laughter)

19 MR. SHAW: Thank you.

20 CROSS-EXAMINATION

21 BY MR. SHAW:

22 Q. Before the next bell, let me ask you,
23 did anyone in the meeting where the Muenkel report
24 was distributed to the board say to Mr. White that
25 they would not be returning the report?

1 Alyssa Horneff - Cross

2 A. No.

3 Q. And did you observe Ms. Ziegelbauer
4 and whether or not she was forthcoming in
5 returning the report?

6 A. Yes.

7 Q. What were your observations?

8 A. When Jeffrey White collected them
9 back, he counted them. All of the reports had our
10 name on them. And so, he very quickly understood
11 that he was still missing one and it was Dorothy's
12 and he had asked for it back at that point, and
13 that started a chain of events of a lot of us
14 saying return it and Dorothy had left the room
15 with her cell phone. And, we had talked through
16 do we follow her, how do we get it back, and kind
17 of what the -- what was happening.

18 It was a little bit of a shock of not
19 understanding the procedure as I thought it would
20 go based off of Jeff's original ask of returning
21 the document.

22 Q. So you expected everyone to return
23 the report?

24 A. Yes.

25 Q. And about how long did it take for

1 Alyssa Horneff - Redirect
2 Jeff to try to retrieve the report?

3 A. I would say roughly 15, 20 minutes.

4 Q. So the board members were waiting in
5 the room for the return of the report for that
6 period of time?

7 A. Yes. Dorothy had requested to try to
8 find some cell service to try to call her lawyer,
9 and so, we sat and granted that, I think, just out
10 of we weren't quite sure what next steps to take.

11 Q. And did there come a time when she
12 returned to the room with the rest of the board
13 members?

14 A. Yes.

15 Q. And did she say anything to the board
16 members about not returning the report?

17 A. Yes. She said on advice of counsel,
18 she would not be returning the report.

19 MR. SHAW: No further questions.

20 THE HEARING OFFICER: Do you
21 have any further questions, Ms. Walsh?

22 MS. WALSH: Yes.

23 REDIRECT EXAMINATION

24 BY MS. WALSH:

25 Q. Do you know if any board member asked

1 Alyssa Horneff - Redirect

2 Ms. Ziegelbauer to return the report?

3 A. Yes.

4 Q. Do you know who did?

5 A. A number of us had asked her just to
6 return the report. One board member said, Come
7 on, don't do this, just return it.

8 There was discussion around if this
9 was a trial or something and someone walked out
10 with some evidence, you know, it would be a grave
11 kind of misstep. So we tried to impart on her
12 that she should return it.

13 Q. And did you understand that
14 Mrs. Ziegelbauer was agreeing -- understood that
15 this was being confidential and she was keeping it
16 confidential?

17 A. Could you clarify a little bit.

18 Q. You already testified --

19 THE HEARING OFFICER: Ms. Walsh,
20 rather than frame your question, did
21 you understand that Mrs. Ziegelbauer
22 was going to keep it confidential, ask
23 her what she heard, what she saw.

24 Q. Did you hear that Mrs. Ziegelbauer,
25 that she was keeping the report confidential and

1 Alyssa Horneff - Redirect
2 understood it was a confidential report?

3 A. Yes, she did mention that she would
4 keep it confidential and she would not share it,
5 because a board member, and I don't -- a board
6 member mentioned that as soon as it steps out of
7 the room it becomes nonconfidential just by nature
8 of our town and people. But, Dorothy did say,
9 yes, I'd keep it confidential and I believe she
10 kept it confidential out of her attorney's advice
11 and had mentioned that she didn't have full
12 confidence that she would get the report.

13 Q. And do you know --

14 THE HEARING OFFICER: You were
15 saying she kept it confidential.

16 MR. SHAW: Could we have that
17 read back.

18 THE HEARING OFFICER: Yes, let's
19 read that back.

20 MR. SHAW: Could we have a read
21 back on the last response.

22 THE HEARING OFFICER: To see if
23 we got all of it before the
24 announcement.

25 (Record read)

1 Alyssa Horneff - Redirect

2 Q. Who was the board member who said
3 that once something leaves the room, it's
4 nonconfidential?

5 A. I'm not comfortable and I don't
6 recall.

7 Q. Okay. Was there any support given
8 for that, that is -- or let me ask you a question.

9 Do you understand, is there any law
10 that says that if a document leaves a room it
11 automatically is a release of information? Is
12 that your understanding?

13 A. That statement was not grounded or
14 given in the context of law or protocol. It was a
15 situation that we were not expecting, and so I
16 think, my personal opinion is that it was a way to
17 try to get that report back.

18 THE HEARING OFFICER: Any other
19 questions of this witness?

20 MS. WALSH: No.

21 THE HEARING OFFICER: Mr. Shaw?

22 MR. SHAW: No further questions.

23 THE HEARING OFFICER: All right,
24 this witness is excused. Thank you.

25 (Alyssa Horneff is excused as a

1 Proceedings

2 witness and leaves the witness stand.)

3 THE HEARING OFFICER: Thank you
4 for all your help today with the
5 technology.

6 MS. HORNEFF: You're welcome.

7 THE HEARING OFFICER: Next
8 witness?

9 MS. WALSH: I think right now
10 I'm just going to call Ms. Ziegelbauer
11 because we're getting late in the day
12 and I'd rather have her testimony if we
13 can't get to other board members.

14 THE HEARING OFFICER: Okay,
15 excellent.

16 Ms. Ziegelbauer, you want to
17 take the witness stand?

18 MS. WALSH: Can we just take a
19 five-minute break, just because it's
20 been a long --

21 THE HEARING OFFICER: How about
22 three minutes?

23 MS. WALSH: It's five to three,
24 so...

25 THE HEARING OFFICER: All right.

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Proceedings

We're back here at three. But you know we can't start without you, so try to respect that and come right back, okay? We talked this morning about not taking breaks for prep.

(Recess taken).

(Dorothy Ziegelbauer is called as a witness and takes the stand.)

THE HEARING OFFICER: Ms. Ziegelbauer. Would you raise your right hand.

Do you swear to tell the truth, the whole truth and nothing but the truth with respect to the testimony that you're about to give.

THE WITNESS: I do.

THE HEARING OFFICER: The witness is sworn, Ms. Walsh.

(Continued on next page)

1 Dorothy Ziegelbauer - Direct

2 WHEREUPON, .

3 DOROTHY ZIEGELBAUER,

4 called as a witness herein, having

5 been first duly sworn, is examined

6 and testifies as follows:

7 DIRECT EXAMINATION

8 BY MS. WALSH:

9 Q. Hello, Mrs. Ziegelbauer.

10 A. Hello.

11 Q. Could you just, as we get started,
12 first of all, just could you tell us a little bit
13 about your educational background?

14 A. Sure. I have a Master's degree in
15 information systems from Stevens Institute of
16 Technology, and I have a Mast- -- a Bachelor of
17 Science in information systems from Ramapo College
18 and I also have a project management certificate
19 from Stevens and a data processing -- an
20 Associate's in data processing from Maple Woods
21 Community College.

22 Q. Are you currently employed outside
23 the home?

24 A. Yes, I work --

25 Q. And what is -- I'm sorry. What is

1 Dorothy Ziegelbauer - Direct
2 your current position of employment?

3 A. I work as the director of business
4 development for Verisk Strategic Alliances for
5 Insurance Services Office whose parent company is
6 Verisk Analytics.

7 Q. Could you tell me what duties you
8 have in your current position?

9 MR. SHAW: Objection, relevance.

10 MS. WALSH: Because she --

11 THE HEARING OFFICER: Well, I'm
12 going to allow it. It's introductory.
13 Let's keep moving.

14 A. In my current position, I negotiate
15 agreements with third parties, both who we license
16 data from and we license our IP to. I also help
17 to do due diligence on potential acquisitions that
18 our company is looking to make.

19 Q. And does your position require an
20 understanding of confidential information and
21 protection of confidential information?

22 A. Absolutely.

23 Q. And how long have you been in your
24 position with the company?

25 A. I've been with the company for

1 Dorothy Ziegelbauer - Direct
2 24 years.

3 Q. And during those 24 years, has there
4 ever been any charge or concern about any release
5 of confidential information or misuse of
6 confidential information?

7 A. No.

8 Q. Have you ever had any charge of
9 misconduct or any allegation about misconduct in
10 the current -- your current position of
11 employment?

12 A. No.

13 MR. SHAW: I'm going to object
14 to the relevance to these proceedings.

15 THE HEARING OFFICER: I've
16 allowed it. The answer is in, but
17 let's move on from there, please.

18 Q. How long have you been living in
19 Tuxedo?

20 A. Since 2008.

21 Q. And do you have children in the
22 District?

23 A. Yes, one in the high school.

24 Q. And do you do any volunteer work in
25 addition to your -- in addition to the board,

1 Dorothy Ziegelbauer - Direct
2 which we will come to, and in addition to your
3 paid employment?

4 A. Yes.

5 Q. And what is that?

6 A. I was on the PTO for six years, one
7 year concurrent with my board service. I was both
8 vice president and treasurer at different points
9 in time on the PTO.

10 I volunteer currently at Pollinator
11 Meadow in Tuxedo. At work, I volunteered for the
12 last six years and in fact help starts a women's
13 network for our organization, and I also volunteer
14 for an external network that provides services to
15 families who have lost someone in 9/11 called
16 Tuesday's Children.

17 Q. And I just wanted to clarify for the
18 record, what is Pollinator Meadow?

19 A. Sterling Forest owns a piece of
20 property on the corner of 17 and 17A. The back of
21 the property is the first marked trail in the
22 United States related to the Appalachian Trail and
23 they've a piece of property on that corner that
24 they designated; we're working with Sterling
25 Forest to make a natural Pollinator Meadow for,

1 Dorothy Ziegelbauer - Direct

2 you know, pollination of native plants.

3 Q. And now, you currently serve on the
4 Board of Education, we understand that. How long
5 have you been on the Board?

6 A. Five years.

7 Q. And what position do you currently
8 hold?

9 A. Currently? I'm a board trustee.

10 Q. Okay. And in the past, what
11 positions have you held?

12 A. The prior school year, I was the
13 board president.

14 Q. And any other officer positions?

15 A. No. Although I have served on
16 several different committees.

17 Q. Okay. So were you ever vice
18 president?

19 A. Yes.

20 Q. And what year was that?

21 A. Not last year, the year before.

22 Q. Now, do you take an oath of office
23 for the Board of Education?

24 A. Yes, when your sworn in.

25 Q. Was there also an oath for board

1 Dorothy Ziegelbauer - Direct
2 president as well?

3 A. Yes, I think so.

4 Q. And have you from your perspective
5 held true to your oath of office for the Board of
6 Education that you took?

7 A. Yes.

8 Q. And you mentioned that you were PTO
9 treasurer and there was another volunteer
10 position. In any of your -- those volunteer
11 positions with handling finances, were there
12 any -- or any volunteer position at all, was there
13 any charge of misconduct?

14 A. No.

15 Q. Any allegations also of inappropriate
16 actions?

17 A. No.

18 Q. And what about the year you were vice
19 president, were there any charges of misconduct,
20 any concerns about any allegations of impropriety?

21 A. No charges and no concerns, to my
22 knowledge.

23 Q. And when does your current term on
24 the Board of Education end?

25 A. June 30th, 2022.

1 Dorothy Ziegelbauer - Direct

2 Q. Now, just related to this hearing,
3 Trustee Ziegelbauer, have you made any requests,
4 if you recall, related to this hearing?

5 A. Several.

6 Q. And do you remember what they were?

7 A. We requested a stay from the
8 Commissioner on the first scheduled hearing date
9 of October 15th. We requested the recusal of Dan
10 Castricone from this hearing and his ability to
11 vote on the charges.

12 Q. Trustee Ziegelbauer, did there come a
13 time when you did learn about the resolution vote
14 on the charges?

15 A. Yes. On October 1st --

16 Q. I'm sorry. The resolution vote --
17 the board vote on the charges, the resolution, if
18 you remember?

19 A. Could you reference it in an exhibit
20 and a date?

21 Q. Yes, sure.

22 A. That would be helpful.

23 Q. Let me get you back to A.

24 MS. WALSH: Respondent's A?

25 THE HEARING OFFICER: So the

1 Dorothy Ziegelbauer - Direct
2 Respondent' A, the meeting of
3 September 24?

4 MS. WALSH: Or it's the
5 appointment of the hearing officer,
6 yes. I have one here.

7 THE HEARING OFFICER: Respondent's A.

8 MS. WALSH: Yes.

9 THE HEARING OFFICER: The
10 resolution appointing me.

11 MS. WALSH: Mm-hmm.

12 Wait. I have it here.

13 THE HEARING OFFICER: No.

14 That's okay. I'll give it to her.

15 BY MS. WALSH:

16 Q. Does this refresh your recollection
17 to the question, did there come a time when you --
18 the question was, did there come a time when you
19 learned about the board vote on the charges?

20 A. On this date, as I believe I was
21 notified by Mr. Castricone that I would not be
22 allowed in the Executive Session, and so, I waited
23 for a notification that the Board was going back
24 into the regular meeting.

25 Once we went back into the regular

1 Dorothy Ziegelbauer - Direct
2 meeting, this resolution was read and that's how I
3 learned that there would be charges of misconduct,
4 and due to the fact that I had been excluded from
5 the executive section and told that the topic of
6 discussions was myself, I assumed those charges
7 were to be filed against me.

8 Q. And did you know what these charges,
9 from reading this copy and was read allowed, were
10 referencing?

11 A. No, I had no idea.

12 Q. Did you review the -- did you -- did
13 there come a time when you actually received the
14 resolution?

15 A. Um, I think it was just put up in
16 BoardDocs.

17 Q. Okay. And did you review it?

18 A. Yeah. I still had no idea what it
19 was about.

20 Q. Now, these charges reference, as we
21 discussed, a nonexistent District Policy 1315,
22 which has -- now so, did you review the document
23 and look at the policy at that time?

24 MR. SHAW: I'm going to object
25 to the relevance. The witness was

1 Dorothy Ziegelbauer - Direct
2 served with charges and that would be
3 the relevant document for which she's
4 defending these proceedings.

5 MS. WALSH: This was on
6 September 24th and the charges were on
7 October 1st.

8 THE HEARING OFFICER: Okay. The
9 question was on the 24th --

10 MS. WALSH: On the 24th --

11 THE HEARING OFFICER: -- did she
12 review this policy, right?

13 MS. WALSH: Yes.

14 THE HEARING OFFICER: Did you?
15 Did you review that policy?

16 THE WITNESS: On -- when I
17 reviewed? Subsequent to the meeting,
18 after the meeting ended, I looked on
19 BoardDocs, I looked in my personal
20 folder, and I was unable to locate
21 District Policy 1315.

22 THE HEARING OFFICER: Okay,
23 thank you.

24 THE WITNESS: So I had
25 absolutely no idea what they were

1 Dorothy Ziegelbauer - Direct
2 talking about.

3 THE HEARING OFFICER: That's
4 your answer.

5 BY MS. WALSH:

6 Q. And what, if anything, did this lead
7 you to believe about the charges at that time?

8 MR. SHAW: Objection, relevance.

9 THE HEARING OFFICER: Yes, we
10 have not gotten to the charges. This
11 is about the her reaching the point --

12 MS. WALSH: The Board is voting
13 on purporting to conduct a hearing
14 pursuant to District policy on two
15 charges.

16 (Court reporter clarification)

17 MS. WALSH: I'm sorry, I'm reading.

18 The resolution states, "Be it
19 resolved that the Board hereby appoints
20 Carol Hoffman to conduct a hearing
21 pursuant to District Policy 1315 and
22 Education Law 1709(18) regarding two
23 charges of official misconduct." And
24 that's why I keep using the term
25 charges, so I apologize for that.

1 Dorothy Ziegelbauer - Direct

2 BY MS. WALSH:

3 Q. So what, if anything, did this lead
4 you to believe about the resolution that you have
5 testified about already?

6 A. Upon understanding that as far as I
7 could determine, District Policy 1315 did not
8 exist. It led me to believe that these were
9 completely bogus because I had no idea what the
10 reference was or what they were talking about.

11 THE HEARING OFFICER: Okay. So
12 did there come a time when she received
13 the charges?

14 MS. WALSH: That's my next
15 question.

16 THE HEARING OFFICER: Go.

17 MS. WALSH: That was exactly my
18 question.

19 BY MS. WALSH:

20 Q. Did there come a time when you
21 received a copy of the charges?

22 A. Yes. On October 1st, my husband and
23 I attended a CSE meeting during the day, where we
24 were trying to get the District --

25 MR. SHAW: Objection. The

1 Dorothy Ziegelbauer - Direct

2 answer is now exceeding the question.

3 THE HEARING OFFICER: Yes. Just
4 answer the question, please.

5 Did there come a time when you
6 received the charges?

7 THE WITNESS: Yes.

8 THE HEARING OFFICER: And do you
9 remember the day.

10 THE WITNESS: The day was
11 October 1st.

12 THE HEARING OFFICER: Okay,
13 thank you.

14 BY MS. WALSH:

15 Q. What, if anything, were you doing on
16 October 1st before you received the charges?

17 MR. SHAW: Objection, relevance
18 proffer.

19 THE HEARING OFFICER: Go ahead
20 and answer, but let's move on if we
21 can. Just be direct.

22 A. We attended a CSE meeting where we
23 were trying to get the District to provide
24 services for our daughter that was in crisis and
25 had been for several months.

1 Dorothy Ziegelbauer - Direct

2 THE HEARING OFFICER: Thank you.

3 MS. WALSH: Do you want a break?

4 THE WITNESS: No.

5 Q. And did there come a time when you
6 responded to the charges?

7 A. Yes, through counsel.

8 Q. Okay. I'm going to ask --

9 A. My counsel responded -- my counsel,
10 you, Ms. Walsh, responded to the charge, I believe
11 on the 12th.

12 MS. WALSH: I'm going to ask to
13 show the witness Exhibit C, it's
14 also -- I believe that is in evidence,
15 it's the response. It's also joint
16 exhibit.

17 Do you want to give it to her or
18 do you want me to give it to her? It's
19 a letter dated October 12th, 2021.

20 THE HEARING OFFICER: Let the
21 record reflect that I'm giving the
22 witness Joint 3, Hearing Officer's
23 exhibit.

24 Question, Ms. Walsh?

25 Q. Is this your response to the charges?

1 Dorothy Ziegelbauer - Direct

2 A. Yes, this is the response to the
3 charges as provided by your office on my
4 direction.

5 Q. And what was your opinion? Do you
6 want to just summarize this document and what your
7 view of the charges were and why?

8 MR. SHAW: I'm going to object.
9 I think the answer stands on its own as
10 the response to the charges.

11 Q. Could you look at this document --

12 THE HEARING OFFICER: Wait,
13 wait, wait.

14 MS. WALSH: I'm sorry.

15 THE HEARING OFFICER: What's our
16 process here?

17 MS. WALSH: I'm sorry.

18 THE HEARING OFFICER: There's an
19 objection.

20 MS. WALSH: I'll withdraw it.

21 THE HEARING OFFICER: Okay.

22 MS. WALSH: I'll withdraw it.

23 Q. I would ask for you then to look at
24 in document, Mrs. Ziegelbauer, and does this
25 reflect your true and complete response to the

1 Dorothy Ziegelbauer - Direct
2 situation? And if not, tell me.

3 A. It does reflect my response to the
4 charges.

5 Q. You had mentioned that you made some
6 requests in connection with the hearing and you
7 did state you requested the recusal of
8 Mr. Castricone from the meeting?

9 A. Correct.

10 Q. Could you just tell me about the
11 background and why. Not the charges against him,
12 I'm not going there. I just need to know about
13 the background as far as the July 8th Executive
14 Session meeting, et cetera.

15 MR. SHAW: My objection is based
16 upon the fact that already in evidence
17 we know that this is a matter before
18 the Commissioner of Education. This
19 hearing is regarding the charges, not
20 regarding the qualification of the
21 jurors or whether or not any of them
22 should be recused.

23 THE HEARING OFFICER: Ms. Walsh,
24 I understand that the issue of recusal
25 has been put to the Commissioner.

1 Dorothy Ziegelbauer - Direct

2 MS. WALSH: Yes, and I'm just
3 noting -- okay. I'm -- I'm not asking
4 us to delve into that. I'm just asking
5 about the background of that.

6 THE HEARING OFFICER: Which is
7 delving into it.

8 MS. WALSH: It's not going to
9 the charges. I'll ask it another way.
10 That's fine.

11 BY MS. WALSH:

12 Q. Can you tell me, Mrs. Ziegelbauer,
13 looking at Charge No. 2, which is on the
14 confidential report prepared by the
15 board-appointed investigator, Margaret Muenkel,
16 regarding an alleged breach of confidential
17 personally identifiable student information that
18 was reviewed in Executive Session and to be
19 collected back from each member of the board,
20 that's the substance of it right now.

21 Can you tell me what the background
22 on that charge is, what happened at that --
23 regarding that alleged breach of confidential
24 personally identifiable student information?

25 MR. SHAW: If I understand the

1 Dorothy Ziegelbauer - Direct
2 background, this is relating to her
3 actions on the evening of
4 September 15th when the report was
5 handed out? Is that the background
6 that you're talking about.

7 MS. WALSH: Mm-hmm.

8 MR. SHAW: No objection to her
9 testifying to what was happening on
10 September 15th, the date of the
11 charges.

12 THE HEARING OFFICER: Okay. Do
13 you understand the question?

14 THE WITNESS: I'm sorry. No, I
15 don't.

16 Can you read it back? I don't
17 understand the question.

18 THE HEARING OFFICER: I don't
19 think that's exactly what was asked,
20 but we got lost in the rendition.

21 MR. SHAW: Well, I have an
22 objection to what was asked.

23 (Record read as follows:

24 "Can you tell me what the
25 background on that charge is, what

1 Dorothy Ziegelbauer - Direct
2 happened at that -- regarding that
3 alleged breach of confidential
4 personally identifiable student
5 information?")

6 MR. SHAW: My objection is to
7 that. The charge is about her conduct
8 on September 15th regarding a report
9 that was of a confidential nature. It
10 isn't about individuals and their
11 actions at some previous point in time.
12 That's not what this hearing is about.

13 MS. WALSH: Let me go backwards.
14 I will do it that way. That's fine.

15 BY MS. WALSH:

16 Q. Ms. Ziegelbauer, if you could look at
17 Charge 2 that we just referred to. It is quoted
18 in that letter. That might be a good thing to
19 look at. If you could look at Charge 2. What
20 does Charge 2 state?

21 A. On or about September 15th, Dorothy
22 Ziegelbauer was issued a confidential report
23 prepared by board-appointed investigator, Margaret
24 Muenkel, regarding an alleged breach of
25 confidential personally identifiable student

1 Dorothy Ziegelbauer - Direct
2 information that was reviewed in Executive Session
3 and to be collected back from each member of the
4 board to protect the privacy rights of those
5 individuals identified in the report.

6 Ms. Ziegelbauer refused to return the
7 report at the meeting and refuses to return the
8 report to date.

9 Q. Okay. So this is regarding actions
10 related to September 15th.

11 Now there is a statement in this
12 charge that there was a confidential report
13 prepared by a board-appointed investigator,
14 Margaret Muenkel, regarding an alleged breach of
15 confidential personally identifiable student
16 information that was reviewed in Executive
17 Session.

18 Now, can you tell me about the
19 alleged breach of confidential student informa- --
20 confidential personally identifiable student
21 information that prompted the request for the
22 investigation?

23 MR. SHAW: I have an objection
24 to that. That relates to part of the
25 charge. What was the investigation

1 Dorothy Ziegelbauer - Direct
2 into. That's not at issue.

3 The issue here is, having
4 received the report which is referring
5 to confidential information not about
6 the student alone but others as well.
7 That's the key element of this report,
8 and it's not just about a student, and
9 the request to return the report was
10 based upon confidential information
11 beyond just the student.

12 MS. WALSH: And not that's
13 the --

14 THE HEARING OFFICER: Ms. Walsh,
15 did you want to respond --

16 MS. WALSH: Yes, thank you.

17 THE HEARING OFFICER: -- before
18 I rule?

19 MS. WALSH: Thank you. Yes, and
20 that is how Mr. Shaw would like to see
21 it. However, without the important
22 background information or without
23 admittance of the full Muenkel report
24 in evidence, there's no way to have on
25 the record what the background is that

1 Dorothy Ziegelbauer - Direct
2 is related and intertwined with Trustee
3 Ziegelbauer's request and need to keep
4 the report in addition to her board
5 member -- as part of her board member
6 duties and as a parent. So it is
7 relevant and it's certainly relevant.
8 I'm not --

9 (Public address system
10 announcement interruption)

11 THE HEARING OFFICER: Well, I'm
12 going to sustain the objection on the
13 grounds that these two charges are very
14 clear and Charge No. 2 deals with
15 behavior on September 15th, simply with
16 being handed a report, told to give it
17 back, and refused to give it back. So
18 that's what we're going to be
19 questioning this witness about.

20 Any prior relationship she had
21 or prior interactions she had is not
22 relevant to what happened that evening
23 and that's what we're focusing on, that
24 evening.

25 MS. WALSH: How can that not be

1 Dorothy Ziegelbauer - Direct
2 relevant to some degree on what the
3 report was?

4 THE HEARING OFFICER: It's not
5 about what the report was.

6 MS. WALSH: No. I understand
7 that but if we're having --

8 THE HEARING OFFICER: Especially
9 since she said she never disclosed
10 anything from the confidential report.
11 What's in that report is not relevant.

12 THE WITNESS: I disagree 1,000
13 percent.

14 THE HEARING OFFICER: I
15 understand, but you're out of line,
16 you're out of place, it's not your time
17 to speak, and when the witness is free
18 to speak, we'll let you know,
19 Ms. Ziegelbauer, but right now, I'm
20 having a discussion with counsel about
21 these documents.

22 MS. WALSH: And I just want to
23 preserve my objection to not --

24 THE HEARING OFFICER: Your
25 objection is noted.

1 Dorothy Ziegelbauer - Direct

2 MS. WALSH: Okay.

3 THE HEARING OFFICER: There will
4 be plenty of opportunity. There will
5 be a briefing schedule. There will be
6 closing statement. There will be
7 whatever you want to use for arguments.
8 But right now, now the factual
9 testimony should focus on the charges.

10 MS. WALSH: Understood. That's
11 another reason that I believe the
12 Muenkel report does need to be in
13 evidence as a confidential document
14 with anything redacted as needed.

15 BY MS. WALSH:

16 Q. In any event, Ms Ziegelbauer, the
17 charge regarding September 15th states that -- it
18 references the Muenkel report. Can you tell us
19 what the Muenkel report is from your perspective?

20 A. From my perspective, the Muenkel
21 report is a report that was sanctioned or approved
22 by the Board of Education to look into to
23 understand how confidential information from my
24 child's special education meeting found its way to
25 President Castricone outside of the special

1 Dorothy Ziegelbauer - Direct
2 education meeting, and it was not investigated by
3 the Board prior to retaining counsel regardless of
4 the fact that I requested it on multiple
5 occasions, both verbally and in writing. And I
6 was left no, no other avenue to protect the rights
7 of my family and my child than to retain counsel
8 to find out how my child's personally identifiable
9 information from a confidential meeting that I had
10 with District staff to find out whether or not one
11 of my child's grades was subject to a term in her
12 504, how that information got leaked outside of
13 that meeting.

14 Q. And you mentioned you requested the
15 report in writing. Do you recall how you
16 requested the report?

17 A. I requested an investigation --

18 Q. I mean, I'm sorry, the investigation.
19 Go ahead.

20 A. -- in requesting -- once I retained
21 you as my counsel in a letter counsel previously
22 referenced as one of the exhibits, we -- I via you
23 requested that an investigation be done, that we
24 be provided a copy of the report, and that any
25 staff action taken as a result of the report be

1 Dorothy Ziegelbauer - Direct
2 known to us.

3 Q. And was that a letter dated
4 July 20th, on or about, July 20th, 2021?

5 A. That's about the right timeframe,
6 yes.

7 MS. WALSH: We have a document
8 that's ID'd as July 20, 2021, and I'd
9 like to show it to the witness.

10 THE HEARING OFFICER: We've
11 already made a determination on the
12 admissibility of that document.

13 MS. WALSH: But can she refer to
14 it is the question.

15 THE HEARING OFFICER: For what
16 purpose?

17 MS. WALSH: Because she just
18 testified there was a written request
19 and I wanted to ask her if this was the
20 written request.

21 THE HEARING OFFICER: She
22 already stated that.

23 MR. SHAW: There was testimony
24 about a request for a report. There
25 was evidence that the report was

1 Dorothy Ziegelbauer - Direct
2 prepared.

3 THE HEARING OFFICER: Exactly.

4 And the charge doesn't relate to
5 the report, the contents of the report.
6 It relates to her refusal to hand it
7 back to the superintendent.

8 BY MS. WALSH:

9 Q. Ms. Ziegelbauer, on September 15th,
10 before the meeting, there was an Executive Session
11 meeting; is that right?

12 A. Yes.

13 Q. Before the meeting did you have any
14 knowledge of what was going to be discussed?

15 A. No. I believed that the notice for
16 that meeting said that it was a personnel matter
17 that would be would be explored. The reason to go
18 into the meeting was a personnel matter and that's
19 why we were going into Executive Session.

20 Q. And so, Superintendent White and all
21 the board members were there; is that right?

22 A. Correct.

23 Q. And before the report was distributed
24 to the Board, what do you recall Superintendent
25 White saying, if anything?

1 Dorothy Ziegelbauer - Direct

2 A. He just said I have a report, I'm
3 going to hand it out, I would ask that you give it
4 back, but he did not ask for any affirmation or
5 record any affirmation from anyone present as to
6 whether or not they agreed that they would return
7 it and he also did not identify what it was.

8 Q. And did you ever return it at that
9 point?

10 A. I did not 'cause I didn't have any
11 idea what I was receiving.

12 Q. And did he mention any protocol?

13 A. No.

14 Q. Did he mention any policies requiring
15 this?

16 A. No.

17 Q. Did he mention any laws requiring the
18 return?

19 A. No.

20 Q. Did you understand that this was a
21 confidential document?

22 A. Yes.

23 Q. And then, upon receipt of the report
24 at that meeting, what did you do first when you
25 got it?

1 Dorothy Ziegelbauer - Direct

2 A. I read it through couple times.

3 Q. And about how long -- go ahead. Do
4 you have more?

5 A. I read it through a couple times and
6 sat quietly as other board members discussed
7 aspects of the report.

8 Q. And about how long did you have to
9 review it, if you recall, before it was asked to
10 be --

11 A. Ten or fifteen minutes, maybe, at
12 most.

13 Q. And was that enough time for you to
14 review it?

15 A. It was enough time to give it a
16 cursory review and understand topically what the
17 contents contained but not to have a full and
18 complete understanding of all of the detail
19 provided in the report.

20 Q. Did anyone ask you to return the
21 report at that time?

22 A. Um, after some conversation, I
23 couldn't tell you how much conversation, Jeff
24 White did ask if everyone had reviewed it and then
25 asked for it to be returned and at that point I

1 Dorothy Ziegelbauer - Direct
2 indicated to everyone present that I was going to
3 contact my attorney and took my phone and walked
4 out of the room and subsequently walked out of the
5 building because that was the only way to get
6 service.

7 Q. And did you receive any request, if
8 you remember, either directly or indirectly, to
9 return the report?

10 A. Yes. There were several requests as
11 previously noted by Mr. White and other board
12 members.

13 Q. And did you believe you had an
14 obligation to return the report?

15 A. I did not.

16 Q. And why was that?

17 A. As I understood your counsel, there
18 was no law that required the report, there was no
19 written protocol that required the report, and in
20 fact there was no affirmation from anyone present
21 that they would return the report that had been
22 recorded and I needed the report to review and try
23 and fully understand all of the detail contained
24 within it; and I stated my understanding that it
25 was a confidential report and relayed to the Board

1 Dorothy Ziegelbauer - Direct
2 and the superintendent, everyone present that I
3 understood that it was confidential and as a board
4 member it was my duty to keep the contents
5 confidential.

6 Q. Charge 2, if you look at that, it
7 states that Superintendent White asked the return
8 of the report to protect privacy rights of the
9 individuals identified in the report. Do you know
10 what privacy rights this refers to?

11 A. Actually I don't because there was no
12 salary information, there -- which even if there
13 was, would be public knowledge; it's in the public
14 domain. As I understand, personally identifiable
15 information, from my position at work and the
16 attorneys that I work with on a regular basis and
17 being a -- having data within our possession at
18 work that is subject to the FCRA and other
19 regulations, my understanding of personally
20 identifiable information specifically is related
21 to a person's name, address and phone number,
22 their date of birth, their Social Security number.
23 None of those pieces of information were contained
24 in that report either from staff, Mr. Castricone,
25 or my child.

1 Dorothy Ziegelbauer - Direct

2 Q. Did you think there was -- aside from
3 that identification, did you think there was any
4 private confidential information on district
5 employees?

6 A. No. The only -- the only -- no.

7 Q. Okay. And what about the concern
8 that has been mentioned in this testimony about
9 whistleblower, the protection of whistleblower
10 concerns.

11 A. The term "whistleblower" was never
12 known to me prior to the receipt of that report,
13 and as prior testimony by Mr. White and I think
14 others but I'm not a hundred percent certain,
15 there was no whistleblower report ever filed by
16 any District employee.

17 Q. So you never came across the
18 whistleblower complaint?

19 A. No, I was never aware of one or even
20 the possibility of one prior to the receipt of
21 that report.

22 Q. And do you believe after review of
23 the report there were whistleblower -- there
24 should have been protection of whistleblowers?

25 A. No, I do not because I believe if

1 Dorothy Ziegelbauer - Direct
2 there was a legitimate whistleblower complaint,
3 the actions described in the report took place
4 months prior to July 1. Mr. White came on board
5 as the new superintendent on July 1. This in fact
6 didn't come out in Executive Session until
7 July 8th, and I believe that there was a
8 legitimate whistleblower complaint given the fact
9 that the conversation that took place that was the
10 origin of the whole thing was an email, that the
11 minute Jeff White became superintendent, the
12 whistleblower would have been brought forth and
13 there would have been a whistleblower complaint
14 not before July 8.

15 MR. SHAW: I'm going to object
16 to this testimony. This is
17 speculation --

18 THE HEARING OFFICER: Yes, it
19 is.

20 MR. SHAW: -- about what would
21 be whistleblowing and when. This is
22 not testimony of someone's actual
23 knowledge of actual events.

24 THE HEARING OFFICER: Sustained.
25 Do you have another question?

1 Dorothy Ziegelbauer - Direct

2 Q. Do you know if the Board does have a
3 whistleblower policy?

4 A. I am not aware of one.

5 Q. Just to clarify, the District
6 clarified before September 24th, you never heard
7 of any concerns about a whistleblower.

8 A. No.

9 Q. Before September 24th.

10 Ms. Ziegelbauer, have you released
11 any information from the report outside of your
12 review or review of counsel?

13 A. No.

14 Q. Or this hearing?

15 A. No.

16 MR. SHAW: Could I have moment?

17 Is that my yellow marker over
18 there?

19 MS. WALSH: Oh, yes.

20 MR. SHAW: Thank you.

21 THE HEARING OFFICER: Another
22 question?

23 Q. And do you understand the obligation
24 to keep it confidential?

25 A. Yes.

1 Dorothy Ziegelbauer - Direct

2 Q. I wanted to now turn your attention
3 to Charge No. 1. What does Charge 1 describe?

4 A. I'm sorry?

5 Q. What does Charge 1 describe?

6 A. Charge 1 describes my response --
7 well, I'll just read it. Charge 1 alleges that
8 the misconduct, that on or about August 9th,
9 (inaudible) Ziegelbauer revealed without
10 authorization by email confidential information
11 about the District's negotiation position in
12 bargaining with the Tuxedo Teachers Association,
13 TTA, that they learned of it in a duly convened
14 Board of Education session held on July 20, 2021.
15 Such revelation was made to the TTA's New York
16 State United Teachers bargaining representative,
17 Cairenn Broderick.

18 Q. Now, you've heard some testimony
19 about the August 9th email.

20 MS. WALSH: This might be the
21 time we actually need the other
22 document.

23 MR. SHAW: And the bad news is
24 my email did not get through to Matt.

25 MS. WALSH: Let me try. Can I

1 Dorothy Ziegelbauer - Direct
2 try to email him if it's okay?

3 MR. SHAW: I don't know that
4 emailing from this room is a very good
5 idea.

6 THE WITNESS: Shall we go off
7 the record?

8 MS. WALSH: It did before,
9 though.

10 THE HEARING OFFICER: We
11 are off the record.

12 (Discussion off record)

13 (Recess taken)

14 BY MS. WALSH:

15 Q. So Ms. Ziegelbauer, I think we just
16 read Charge No. 1, and from your perspective, if
17 you could take a look at what's marked as, first
18 as, yeah, District Exhibit 6.

19 A. I have Exhibit 6.

20 THE HEARING OFFICER: She has
21 mine.

22 MS. WALSH: Do you want another
23 copy?

24 THE HEARING OFFICER: No, no.
25 Thank you.

1 Dorothy Ziegelbauer - Direct

2 Q. Do you see the email at 2:44 p.m.

3 A. Yes.

4 Q. Okay. What happened, if you could go
5 back to that time when you were responding to this
6 email, what happened from your perspective?

7 A. I received an email from Jeff White
8 and I responded to him and the Board and the board
9 clerk.

10 Q. And who were you intending -- you
11 were intending to respond to the board clerk and
12 to him and to --

13 A. The Board.

14 Q. And when you checked in your inbox
15 for the email, did it look like it did in
16 District Exhibit 6?

17 A. Um, the --

18 THE HEARING OFFICER: If you
19 remember.

20 Q. If you remember.

21 A. The contents of the email, the
22 original -- the email origination, when I looked
23 at the content of the email, the content of the
24 email was from Jeff White and when I responded, I
25 was responding to Jeff White. I did not look at

1 Dorothy Ziegelbauer - Direct
2 the headers. I looked at the content of the
3 email. The email said it was from Jeff and I
4 responded to Jeff.

5 Q. And when did you -- did there come a
6 time when you did realize that you had responded
7 to Ms. Broderick?

8 A. I did not realize that on my own
9 until I received an email back further on in the
10 thread, which is Respondent something, the other
11 exhibit that is -- the other half of this email, I
12 had no idea that it had gone to anyone other than
13 Jeff, the Board and the board clerk.

14 Q. And --

15 A. Until I received the email from Dan.

16 Q. And just to clarify, if you could
17 look at Respondent F, on page 2, is there the
18 email from Mr. Castricone you're referring to?

19 A. Yes.

20 Q. And what was your reaction?

21 A. My reaction was, um, I had no idea
22 how it ended up with being sent to anyone other
23 than Jeff, who was the one that sent it, and I
24 responded as per the contents of the email and the
25 remainder of the board and the board clerk.

1 Dorothy Ziegelbauer - Direct

2 And my email reflected that I had no
3 idea, no intention to include Cairenn Broderick on
4 my response. I was responding to Jeff and the
5 Board and the board clerk.

6 Q. And if you look back at Respondent F,
7 your email on page 1?

8 A. Mm-hmm.

9 Q. Does this encapsulate -- could you
10 just describe what you wrote here to respond?

11 MR. SHAW: I'm going to object.

12 I think the email will speak for
13 itself.

14 Q. Well, I can ask her, why did you
15 write this?

16 A. Because I had no idea up until that
17 very moment that I read the email that it had gone
18 to anyone other than the people that I intended.
19 I certainly didn't intend it to go to anyone else,
20 and at that point, um, all of the circumstances in
21 the prior two months leading to that, including
22 other charges against other board members and
23 crisis situations that had been ongoing in my own
24 family, including multiple family members in the
25 hospital at the same time, um, had me under a

1 Dorothy Ziegelbauer - Direct
2 severe duress.

3 Q. You mentioned multiple family members
4 at the same time in the hospital. Are you saying
5 at the time of this email on August 10th?

6 A. I am.

7 Q. Okay, thank you.

8 And does this email that you wrote on
9 August 10th, is there anything else you didn't
10 express here that you wanted to express?

11 MR. SHAW: Objection.

12 Q. Well, is this an accurate -- this is
13 your response, correct? Was there anything else
14 you wrote? I guess I could ask that.

15 MS. WALSH: I'll withdraw that.

16 THE HEARING OFFICER: Withdrawn.

17 Q. Was there anything else you expressed
18 either verbally or to the Board in writing?

19 A. Um, there were multiple emails sent
20 that -- requesting an investigation, sent
21 requesting responses on other charges that none of
22 which received a response.

23 MR. SHAW: Objection to this. I
24 ask that it be stricken. It's
25 nonresponsive to the question.

1 Dorothy Ziegelbauer - Direct

2 THE WITNESS: I'm sorry.

3 A. Repeat the question.

4 Q. Were there any other responses --

5 THE HEARING OFFICER: Well, if
6 we're going to have the question back,
7 why don't we have the question read
8 back instead of trying to remember it.
9 There was an objection that the answer
10 was nonresponse.

11 (Record read)

12 THE WITNESS: And the answer
13 was?

14 (Record read)

15 MS. WALSH: That is part of the
16 email if you look at the paragraph one,
17 two, three, four.

18 THE HEARING OFFICER: Well, I --

19 MR. SHAW: I'd just ask that the
20 written response --

21 THE HEARING OFFICER: Speak to
22 itself.

23 MR. SHAW: -- be in the record
24 and the question asked was so
25 open-ended that --

1 Dorothy Ziegelbauer - Direct

2 THE HEARING OFFICER: That it
3 brought up other subjects.

4 MR. SHAW: -- the response seems
5 irrelevant to these proceedings.

6 MS. WALSH: Well, it should be
7 open-ended 'cause I'm not leading her.

8 So in any event, I'll go on. I
9 would ask not to strike it, but her
10 answer speaks for itself and it can be
11 judged for whatever it's worth.

12 THE HEARING OFFICER: Agreed.
13 Let's move on.

14 BY MS. WALSH:

15 Q. As far as this email going back to
16 August 9th that you wrote at 2:44, did there come
17 a time when you realized anything unusual about
18 the email that you responded to?

19 A. I didn't realize there was anything
20 unusual about the email until Dan Castricone asked
21 me why I would send it to the TTA rep, to the
22 NYSUT rep.

23 Q. Okay. And at what time did you
24 notice, if you know, that the email you responded
25 to was from Ms. Broderick?

1 Dorothy Ziegelbauer - Direct

2 A. I didn't until it was pointed out by
3 Mr. Castricone.

4 Q. And when --

5 A. Because the contents of the email are
6 clearly from Jeff.

7 Q. And at the time you wrote this email
8 on August 9th, were you aware of, as far as
9 District emails goes, about any delegation or
10 federation between emails between Ms. Broderick
11 and Mr. Castricone?

12 A. I was not.

13 Q. Not Mr. Castricone. I'm sorry.
14 Mr. White.

15 A. I was not.

16 Q. Superintendent White.

17 A. I was not, nor do I believe was
18 anybody else.

19 Q. And now, could I turn your attention
20 to District 7, the report from CSIG.

21 A. Yes.

22 Q. Did there come a time when you
23 received this report?

24 A. Um, yes, I believe we received it via
25 counsel.

1 Dorothy Ziegelbauer - Direct

2 Q. And it was dated --

3 A. I'm not certain how we received or
4 when we received it, to be quite frank.

5 MS. WALSH: We have a cover
6 letter here that I'm going to ask to
7 put in evidence that just has the date
8 that it was sent, so it will give a
9 date to the report as well. Mr. Shaw
10 provided it to me.

11 THE HEARING OFFICER: Okay. We
12 will call it District 7A, and it's
13 dated October 14th, 2021.

14 Any objection, Mr. Shaw?

15 MR. SHAW: No. That's the cover
16 letter to the report that's D-7.

17 THE HEARING OFFICER: Yes, so
18 D-7 is the report and D-7A is the cover
19 letter.

20 (District Exhibit 7A,
21 10/14/21 cover letter to the
22 CSIG Report of Investigation, is
23 marked and received in evidence,
24 as of this date.)

25 (Continued on next page)

1 Dorothy Ziegelbauer - Direct

2 BY MS. WALSH:

3 Q. Now, when you received this report,
4 did it provide any information or enlighten you on
5 what had happened with that email?

6 A. Yeah, it suggested that there was,
7 um, there was an email rule set up as a delegation
8 to allow Jeff White to send an email on behalf of
9 Cairenn Broderick. I had no idea that there was
10 any such rule in effect, um, in the District
11 servers, and in fact, Ms. Broderick testified that
12 she never gave permission for any such delegation
13 to be created on her behalf.

14 Q. And when you received the email,
15 going back to Respondent F, on page 3 at the
16 bottom, did you notice that the email you were
17 responding to was from Cairenn Broderick?

18 A. No. I looked at the contents of the
19 email starting Ladies and Gentlemen, which is
20 often a salutation that Mr. White uses to address
21 the Board. So Ladies and Gentlemen, to me, was
22 just his voice, and it was signed Thank you, Jeff.

23 Q. And does he, in fact, ask for a
24 response?

25 A. He does, yes.

1 Dorothy Ziegelbauer - Direct

2 Q. Do you know if any other board
3 members responded?

4 A. I do not.

5 Q. If you had known about this
6 delegation or federation of emails, would this
7 have changed anything, do you think in your
8 response?

9 MR. SHAW: I'm going to object.

10 That would be a self-serving answer at
11 this point.

12 THE HEARING OFFICER: That's all
13 right. I'll allow it.

14 Do you have an answer,
15 Ms. Ziegelbauer?

16 A. Absolutely, I never intended this to
17 go to Cairenn Broderick. It was a hundred percent
18 in response to Jeff White, to Jeff White informing
19 the rest of the board that I was asking the
20 question and informing the board clerk that I was
21 asking the question. To Jeff white because I
22 didn't know if there had been something that
23 transpired from whenever we have that conversation
24 within Executive Session to that current date that
25 had changed something that the Board had not yet

1 Dorothy Ziegelbauer - Direct
2 been made aware of, and that was the context of
3 the question.

4 Q. Now, I think in initially responding
5 to the charges you thought maybe you had hit Reply
6 All to the document?

7 MR. SHAW: I'm going to object.

8 THE HEARING OFFICER: And I'm
9 going to sustain the objection.

10 MS. WALSH: Okay, I'll move on.

11 THE HEARING OFFICER: No. You
12 can ask her but don't put the words in
13 her mouth.

14 MS. WALSH: Okay.

15 Q. Ms. Ziegelbauer, do you remember when
16 you replied to the email if you did hit Reply All
17 or Reply?

18 A. Actually I don't. I had not been
19 sleeping well for weeks at that point. As
20 previously stated, I had multiple family members
21 in the hospital all at the same time and I was
22 just trying to keep my head above water, and I
23 just responded however I responded. I have no
24 idea.

25 Q. Do you need a break?

1 Dorothy Ziegelbauer - Direct

2 A. No. It doesn't matter; none of these
3 people care.

4 I'm sorry. Not all of them fall into
5 that category. That's an unfair statement.

6 MS. WALSH: We don't have to put
7 that in the record, that's okay.

8 THE HEARING OFFICER: I have a
9 verbatim transcript. I think we should
10 just continue on and try to conclude.

11 MS. WALSH: Okay.

12 BY MS. WALSH:

13 Q. If you look at the fourth paragraph,
14 or the third or the second body paragraph, it
15 says, the investigator concludes, and you heard
16 his testimony, that the email -- it is indicated
17 in the email authored by Dorothy Ziegelbauer on
18 August 9th, 2021, at 2:44, by hitting Reply, the
19 email was sent to Cairenn Broderick -- the initial
20 email was sent on behalf of her. Then the
21 investigator states the c.c. lines were either
22 autofilled or physically typed with the
23 recipients.

24 Did you recall physically -- did you
25 physically type a note to the recipient, do you

1 Dorothy Ziegelbauer - Direct
2 recall?

3 A. I have no idea. That was at 7:49 in
4 the morning and I'd probably been up since 3:30.
5 I have no idea.

6 Q. I'm sorry. The other one, I just
7 want to clarify for the record, the one on page 3,
8 was at Monday -- look at exhibit page 3, it was at
9 the 2:44 p.m.?

10 A. I'm sorry, page 3 of what?

11 Q. Page 3 of Respondent's F.

12 A. Page 3 of Respondent F is Monday
13 August 9 at 2:44 p.m.?

14 Q. Yes. And the question was, when you
15 sent that email, did you type -- do you know if
16 you typed in any of the recipients?

17 A. No, I didn't. I'm pretty sure I just
18 put Reply All, but I can't be a hundred percent
19 certain.

20 Q. Do you think that's relevant to the
21 charge?

22 MR. SHAW: I'm going to object
23 to her opinion about relevance to the
24 charges.

25 THE HEARING OFFICER: Sustained.

1 Dorothy Ziegelbauer - Direct

2 MS. WALSH: Oh, what is --

3 THE HEARING OFFICER: Sustained.

4 Q. I think, though, you heard Mr. Olivo
5 state that the last line in paragraph 4 was he
6 really didn't know if you had typed or not.

7 If you don't recall either at that
8 point, whether you typed or --

9 A. I don't have any idea.

10 MR. SHAW: I'm going to object
11 to the question, to the form of the
12 question.

13 MS. WALSH: I'll ask it a
14 different way, though.

15 THE HEARING OFFICER: And
16 Mr. Olivo's testimony stands for
17 itself, too, Ms. Walsh. Mr. Olivo's
18 testimony stands for his position.

19 MR. SHAW: Right.

20 THE HEARING OFFICER: So we
21 don't want to attempt to summarize it
22 and mischaracterize it by mistake.

23 BY MS. WALSH:

24 Q. Now, did there come a time when you
25 saw another version of the email, if you recall?

1 Dorothy Ziegelbauer - Direct

2 This is the one that was -- well, I'll show you on
3 my phone.

4 THE HEARING OFFICER: Hearing
5 Officer's 1.

6 Q. Hearing Officer's 1, you can take a
7 look at it.

8 This is -- if you could look at
9 Hearing Officer No. 1, had that document ever and
10 presented in that format that we received from the
11 investigator, have you ever seen the document in
12 that format before?

13 A. No, not prior to the testimony of
14 Mr. Olivo earlier.

15 Q. And did that have any impact on
16 your -- on understanding the charges or preparing
17 to defend yourself against the charges?

18 MR. SHAW: I'm going to object
19 because if she'd never seen it before,
20 how would she have an effect --

21 MS. WALSH: Because she should
22 have received it before.

23 MR. SHAW: -- on her preparing a
24 defense?

25 THE HEARING OFFICER: I was

1 Dorothy Ziegelbauer - Direct
2 going to ask as to the timeframe. Are
3 you saying today, now that she's aware
4 of another, does that have any impact?

5 MS. WALSH: No, no. I'm saying
6 it should have -- when we had our
7 initial hearing date, it should have
8 been disclosed as an exhibit in that
9 format if that was indeed what was
10 given to the investigator on that day,
11 and I did subpoena documents in fact
12 and it should have been disclosed in
13 that way, which would have -- well, I'm
14 asking.

15 MR. SHAW: Well, the record is
16 now clear that Mr. Olivo received this
17 document that's IHO-1 in this form when
18 he did his review; that's in the
19 record.

20 THE HEARING OFFICER: From the
21 superintendent.

22 MR. SHAW: From Jeff White, the
23 superintendent, right.

24 THE HEARING OFFICER: Right.
25 Which is why it didn't show up after

1 Dorothy Ziegelbauer - Direct
2 the in-camera inspection discussion
3 where you asked Mr. Shaw to provide all
4 emails he had that he sent to
5 Mr. Olivo. So it wasn't included in
6 that because we were not aware that
7 another document had gone from the
8 superintendent, but we became aware of
9 that today, and then, I believe at
10 least one board member has testified
11 that that's the form in which she
12 received it.

13 BY MS. WALSH:

14 Q. Was that the form, if you recall,
15 that you received it initially?

16 A. No, I don't ever recall seeing any
17 email in any exhibit that identified that the
18 email was being sent from Jeff White on behalf of
19 Cairenn Broderick.

20 THE HEARING OFFICER: Well, the
21 question is not whether you've seen an
22 email that's part of an exhibit. The
23 question is if you recall receiving
24 this email that says from Jeff White on
25 behalf of Cairenn Broderick.

1 Dorothy Ziegelbauer - Direct

2 THE WITNESS: There's a fine
3 point in there that's being missed.

4 THE HEARING OFFICER: Well,
5 Ms. Walsh, perhaps you could ask the
6 witness the question.

7 BY MS. WALSH:

8 Q. If you could explain then, what's
9 being --

10 A. So the fine point being missed --

11 THE HEARING OFFICER: No, no.
12 It's not about determining what the
13 fine point is. It's about answering a
14 question.

15 THE WITNESS: It is.

16 MS. WALSH: No, no. I asked the
17 question. I asked her the question.

18 THE WITNESS: She asked me a
19 question that I'm answering.

20 MS. WALSH: I asked her the
21 Question, what was the --

22 THE HEARING OFFICER: Ms.
23 Ziegelbauer I'm going to ask you not to
24 argue with us, and wait for a question
25 and then provide your best answer.

1 Dorothy Ziegelbauer - Direct

2 BY MS. WALSH:

3 Q. What do you think is missing from the
4 equation? What do you think is missing?

5 MR. SHAW: No. There was a good
6 question that hasn't been answered yet.
7 I'd like that last question read back.

8 THE HEARING OFFICER: Okay.

9 (Record read as follows:

10 "Was that the form, if you
11 recall, that you received it
12 initially?")

13 MR. SHAW: That's the question.

14 MS. WALSH: She said she didn't
15 recall, but anyway, you can --

16 MR. SHAW: Did she answer she
17 didn't recall?

18 MS. WALSH: Okay, go ahead.

19 MR. SHAW: Let's see what the
20 record says.

21 (Record read as follows:

22 "No, I don't ever recall seeing
23 any email in any exhibit that
24 identified that the email was being
25 sent from Jeff White on behalf of

1 Dorothy Ziegelbauer - Direct
2 Cairenn Broderick.")

3 THE HEARING OFFICER: And that's
4 what I was concerned about.

5 MR. SHAW: Right.

6 THE HEARING OFFICER: Because it
7 was nonresponsive because it dealt with
8 exhibits.

9 MR. SHAW: Right.

10 THE HEARING OFFICER: And That
11 was not the question, so...

12 Q. The question is, if you recall back
13 on August 9th when you received the email, do you
14 recall what form it came in?

15 THE HEARING OFFICER: To
16 Ms. Ziegelbauer's point about fine
17 points, ask her the question, do you
18 recall that the document said "From
19 Jeff White on behalf of Cairenn
20 Broderick"? That's the issue.

21 MS. WALSH: Well, I asked her
22 what form first.

23 THE HEARING OFFICER: What form,
24 but she's not getting it and we're
25 getting unresponsive answers.

1 Dorothy Ziegelbauer - Direct

2 BY MS. WALSH:

3 Q. So when you received the email on
4 August 9th, did it say, if you recall, From Jeff
5 White on behalf of Ms. Broderick?

6 A. No, I never saw that in the email
7 that I received on that date.

8 Q. And it -- Okay.

9 A. And I never saw that at any point
10 until today, earlier when Mr. Olivo described it
11 and put it up on the screen.

12 Q. And you mentioned there was a fine
13 point that you wanted to share. If you could tell
14 us what that was?

15 A. The fine point is that at no time
16 prior to this afternoon did I ever see this email
17 with information that it was sent by Jeff White on
18 behalf of Cairenn Broderick. The contents of the
19 email are from Jeff, not Cairenn.

20 THE HEARING OFFICER: Do you
21 have a question, Ms. Walsh?

22 MS. WALSH: Yes.

23 Q. In your position, you mentioned
24 you're an information specialist. Do you have an
25 understanding of delegation of email in your job?

1 Dorothy Ziegelbauer - Direct

2 A. Yes.

3 Q. And could you just describe what you
4 know it as meaning?

5 A. Yeah, different people have
6 characterized it differently, but probably the
7 easiest way to explain it that people readily
8 understand is, you know, people in business often
9 have an administrative assistant. For example,
10 you have an administrative assistant, they can
11 respond to meeting notices on your behalf and it
12 looks like the response is coming back from you
13 when actually you have delegated that duty to
14 respond to the email or to respond to a meeting
15 request to your administrative assistant, who is
16 physically the one that is actively responding to
17 whatever is sent to you personally, but they are
18 responding on your behalf. And when you receive
19 the response back it looks like it came from the
20 person originally sent to and there's no way for
21 the receiver of that response to know whether or
22 not a delegate answered that or whether the actual
23 person answered it. There's no indication in the
24 email that comes back to you as if it's the
25 delegate or the person themselves.

1 Dorothy Ziegelbauer - Direct

2 Q. And what about, do you have an
3 understanding of federation of email in your
4 employment?

5 A. Federation's a different concept.
6 It's got to do with active directory and trust
7 between two different servers that exist on two
8 different domains.

9 Q. So even though you do have this
10 understanding, you didn't know that the district
11 had this delegation or federation; is that
12 accurate?

13 A. That is accurate, and it's my belief
14 that neither did anybody else.

15 Q. And when you read this report, did
16 this concern you about the District email system?

17 A. Absolutely, which is why I asked in
18 public at the last public meeting if there had
19 been follow-up on this exact topic by the District
20 to determine what the current status of district
21 systems are because it is a grave security
22 concern.

23 Q. Aside from this serious issue about
24 the email and the delegation and federation, do
25 you believe in the email that you sent, even

1 Dorothy Ziegelbauer - Direct
2 though you didn't intend to, there was any
3 release --

4 MR. SHAW: I'm going to
5 object --

6 MS. WALSH: She said there was --

7 MR. SHAW: -- to the form of
8 that question.

9 MS. WALSH: I'm not finished
10 yet. I didn't even finish the
11 question.

12 MR. SHAW: It isn't even a
13 question. It's a statement restating
14 the --

15 MS. WALSH: Okay, okay. So
16 let's not argue. Let's just pose a
17 question.

18 BY MS. WALSH:

19 Q. Do you believe that in the email,
20 aside from the issue of the delegation and
21 federation, on the email you sent on --
22 inadvertently on August 9th, that there was any
23 release of confidential information?

24 A. No. I believe it was public
25 knowledge that the negotiations were ongoing with

1 Dorothy Ziegelbauer - Direct
2 the Teachers Union. I believe that prior board
3 members testified that it had been brought out in
4 public that there were conversations about the
5 number of hours that were being instructional and
6 provided to the children, and I don't recall
7 specifically if it was in public that we were
8 talking about an 8-period day or a 9-period day,
9 but I believe the concern at board level was that
10 the 9-period of day with the number of study halls
11 was not providing state-mandated instruction time
12 to our students and it was of grave concern to all
13 of the board members.

14 Q. Did the board president know that --
15 did you inform the -- I'm sorry. Let me rephrase
16 that.

17 Did you inform the board president
18 that the email was a mistake?

19 A. Yes.

20 Q. What about other board members, did
21 you have...

22 A. Yes, it was made clear in multiple
23 responses that at no time did I intend for that
24 email to go anywhere, to the Union negotiating
25 rep. It was meant for the board and

1 Dorothy Ziegelbauer - Direct
2 superintendent, and the district clerk.

3 Q. Have you ever made this type of error
4 in the school district in your board service of
5 five years before?

6 A. No.

7 Q. And was your disclosure in any way
8 willful?

9 A. No. And my understanding --

10 MR. SHAW: Objection. Her
11 understanding is beyond the scope the
12 question.

13 A. -- of the law --

14 THE HEARING OFFICER: Yes, it
15 is. Sustained.

16 Q. Is there anything else you wish to
17 state about this email and the charge?

18 MR. SHAW: Objection.

19 THE HEARING OFFICER: I will
20 sustain the objection with respect to
21 that.

22 If you have a specific question,
23 you're free to ask it.

24 Q. I think you answered this a little
25 but what was, from your perspective, the primary

1 Dorothy Ziegelbauer - Direct
2 reason for the error? The error in the email, if
3 that's helpful.

4 A. If you're asking if the primary
5 reason for the response going to Cairenn Broderick
6 was that no one knew that there was a delegation
7 between Jeff White and Cairenn Broderick,
8 including Cairenn Broderick, and it was an
9 inadvertent error. My -- the law states that to
10 remove a board member --

11 MR. SHAW: Objection.

12 A. -- it's willful.

13 MR. SHAW: Objection.

14 A. This was not willful.

15 THE HEARING OFFICER: Ms.
16 Ziegelbauer.

17 MR. SHAW: She hasn't been
18 qualified as an expert --

19 THE HEARING OFFICER: She hasn't
20 been qualified as an expert on the law,
21 right.

22 Q. I just want to ask you a few
23 questions about your board service asked a little
24 bit about at the beginning.

25 Has the position of board trustee

1 Dorothy Ziegelbauer - Direct
2 been important to you?

3 A. Yes.

4 Q. And in what way?

5 A. Um, I feel like it -- I volunteered
6 for board service because I thought this was a
7 great school district and I wanted to be more
8 involved and wanted to understand the inner
9 workings of how we move the district forward in a
10 positive manner and that I thought I could
11 contribute to the success of asking the right
12 questions and helping to guide the administration
13 towards more success for our students.

14 Q. Is there any other board member that
15 has been on the board with you for the last five
16 years?

17 MR. SHAW: Objection, relevance.

18 MS. WALSH: Well, it's --

19 THE HEARING OFFICER: Hold on.

20 Hold on. We have an objection.

21 What's the basis of the
22 objection? Relevance?

23 MR. SHAW: I don't understand
24 why the length of service of any one or
25 more particular board members has a

1 Dorothy Ziegelbauer - Direct
2 bearing upon these charges.

3 MS. WALSH: And my response is
4 that if you look at the Commissioner's
5 decisions and if you look at the
6 standards they do look at the person's
7 history of service. For example, you
8 have in one of the cases a long history
9 of racist and highly inappropriate
10 comments, as well as threatening others
11 and assaults, and they do look at the
12 long term of service. So it's relevant
13 for this board to look at her time of
14 service in connection with these two
15 charges, and it is what the
16 Commissioner does look as well
17 as court --

18 THE HEARING OFFICER: Well,
19 there's been no allegation of any
20 historical misconduct. These are two
21 specific charges dated in time in
22 proximity this past year.

23 MS. WALSH: But the other board
24 members might not have seen -- I don't
25 know if they have or not, if they have

1 Dorothy Ziegelbauer - Direct

2 seen --

3 THE HEARING OFFICER: If they
4 have seen her not conduct herself --

5 MS. WALSH: No.

6 THE HEARING OFFICER: -- in a
7 way --

8 MS. WALSH: Seeing her work hard
9 as a --

10 THE HEARING OFFICER: We're
11 speaking over each other again, which
12 is not a good thing for the reporter,
13 So feel free to finish.

14 MS. WALSH: No. They have not
15 seen her working beyond a year. So
16 they have not seen her working
17 diligently and responsibly and very
18 hard as a board member and as trustee.
19 So that's the only reason. It's only
20 one question.

21 MR. SHAW: Well, she has that in
22 the record. You know, any reference to
23 the Gill case from the Commissioner
24 about the racial epithets or the
25 Comanti (phonetic) case about one board

1 Dorothy Ziegelbauer - Direct
2 member in Wappingers strangling or
3 punching another would be wholly
4 irrelevant to these proceedings.

5 THE HEARING OFFICER: I agree.
6 So I'll sustain the objection.

7 Do you have anything further for
8 this witness, Ms. Walsh?

9 MS. WALSH: Yes.

10 BY MS. WALSH:

11 Q. You heard Trustee Ziegelbauer, your
12 fellow trustee, Joe's comments about the
13 challenges of board service during 2020 when you
14 were board president. Could you just elaborate on
15 fulfilling your duties during that year.

16 A. It was an extremely challenging and
17 unprecedented year for all parties all across the
18 world. It was particularly challenging from the
19 perspective of being a school board trustee and a
20 school board president. We had, as Mr. Rickard
21 testified, multiple issues.

22 We needed to replace a
23 superintendent. We had COVID restrictions that
24 changed almost on a weekly basis that we were
25 trying to react to. We had a return to learning

1 Dorothy Ziegelbauer - Direct
2 plan that needed to be provided to the State that
3 was frankly a mess. We agonizingly went over in
4 public, in hours of testimony, to try and get it
5 right and make sure that our students and our
6 staff were protected. It could not have been a
7 bigger mess.

8 Q. And how many hours a week, if any,
9 or, would you say you spent on board service in
10 '20-21?

11 MR. SHAW: I'm going to object
12 at this point to this.

13 THE HEARING OFFICER: We're
14 going far afield at this point.

15 MR. SHAW: I think she
16 established she --

17 THE HEARING OFFICER: Anything
18 with respect to the two charges?

19 BY MS. WALSH:

20 Q. I just wanted to ask what impact, if
21 any, would removal of this board have on you?

22 MR. SHAW: I'm going to object
23 to that as well.

24 MS. WALSH: I think it's
25 important for the Board to hear.

1 Dorothy Ziegelbauer - Direct

2 THE HEARING OFFICER: Can you
3 answer the question, Ms. Ziegelbauer?

4 A. Well, at this point, it's in the
5 public domain that I was the subject of these
6 charges. So the impact to me personally is that
7 it's possible if I were to attempt to get another
8 position at another employer, they would Google it
9 and given the fact that my request to have these
10 proceedings in public was denied, they would not
11 know the outcome of whether or not -- what the
12 details were of this case and I may be denied
13 employment because of it.

14 I've also spent a significant sum of
15 money, probably close to \$30,000 of my only money,
16 of my retirement money, I might add, to defend
17 myself and my family against these charges.

18 So it has had a significant emotional
19 impact, it has had a significant financial impact,
20 and it has had an impact on my child's ability to
21 get services because I can't trust that the people
22 that are supposed to help take care of her can
23 even do their job without illegally giving out
24 information that they had no ability or no
25 reasonable path to receive.

1 Dorothy Ziegelbauer - Direct

2 It is the most egregious of
3 situations, and had I been of lesser means I would
4 have had no recourse, I would have been summarily
5 shut down because this Board did nothing, ignored
6 every request I made as a board member, ignored
7 every request I made as a parent, and left me
8 literally no option but to go get an attorney.

9 So I would say it had a pretty major
10 impact. The whole situation and these charges has
11 had a major impact on myself, my family, y health
12 and well-being as well as that of my child.

13 THE HEARING OFFICER: Thank you.

14 Is there anything else?

15 Q. Is there anything else you wish to
16 say to the Board about the charges?

17 If you need a break, that's fine.

18 MR. SHAW: Objection.

19 THE HEARING OFFICER: It's not
20 time for a break. It's time to wrap
21 up. So is there anything further that
22 she needs? And then we're going to go
23 to cross-examination.

24 At this late hour, I don't think
25 we want to take a break.

1 Dorothy Ziegelbauer - Direct

2 MS. WALSH: Can she answer the
3 question?

4 MR. SHAW: Hasn't she answered
5 that already?

6 MS. WALSH: Well, I don't know.
7 Besides the --

8 MR. SHAW: This is the second
9 time it's been asked.

10 MS. WALSH: That was a different
11 question.

12 THE HEARING OFFICER: All right.
13 All right. Come on. Let's focus.

14 MS. WALSH: It was a different
15 question, though.

16 BY MS. WALSH:

17 Q. In any event, is there anything else
18 you would like to say to the Board of Education
19 about the charges or the hearing and beyond what
20 you had just stated?

21 A. So the only thing that I would like
22 to add to my testimony is that all of these facts
23 are relating to one email and a report that I had
24 to pay to get to find out how somebody got
25 personally identifiable information about my child

1 Dorothy Ziegelbauer - Direct
2 who was in crisis. And I would just ask this
3 Board to put themselves in my shoes for one minute
4 and think how you would react it as a parent had
5 you asked a question to people who were supposed
6 to be trusted advisors on your child's grade to
7 have it end up and result in charges against you
8 that you had to pay thousands of dollars to defend
9 yourself against, killing your reputation within
10 the community and the district, potentially
11 killing any chance you had at other employment,
12 and you're just supposed to sit there and not
13 saying anything because it's all Executive
14 Session.

15 Just put yourself in the shoes of
16 another parent for minute and just tell me what
17 you would think and tell me you would not have had
18 the exact same response as I had because I was
19 left no other choice.

20 Q. Just one more question. You had
21 heard Mr. Shaw make a few references to a Star
22 Chamber in the proceedings.

23 THE HEARING OFFICER: Keep your
24 voice up above the train.

25 Q. You had heard Mr. Shaw make reference

1 Dorothy Ziegelbauer - Direct
2 to Star Chamber in proceedings, and what was your
3 understanding of that?

4 A. Well, I actually looked it up because
5 I didn't, you know, know what it was in reference
6 to and it was mentioned multiple times in the
7 first part of this hearing. And when I did look
8 it up, I was quite shocked frankly, because it was
9 a law that was created in England and the original
10 intent of the law was that it was put in place to
11 protect public officials or political appointees
12 and their defense on charges that may have been
13 levied against them.

14 Additionally, it was abolished
15 because what was determined is that that cloak of
16 the Star Chamber was being used to obfuscate
17 justice and basically do business behind closed
18 doors without the purview of the public.

19 THE HEARING OFFICER: Anything
20 further, Ms. Walsh?

21 Q. And do you have any opinion of its
22 use here, the use of the term in relation to this
23 proceeding?

24 A. After I Googled it to see what it
25 was, I thought it was quite ironic that District

1 Dorothy Ziegelbauer - Cross
2 counsel would use such a term to refer to these
3 proceedings.

4 MS. WALSH: I have nothing
5 further right now so...

6 THE HEARING OFFICER: Okay.
7 Cross-examination, Mr. Shaw?

8 MR. SHAW: I do have some.
9 Thank you.

10 CROSS-EXAMINATION

11 BY MR. SHAW:

12 Q. Ms. Ziegelbauer, is the public
13 allowed into Executive Session?

14 A. At times people in the public are
15 invited into Executive Session, yes.

16 Q. And the public in general is not?

17 A. That's true.

18 Q. More often than not, the public is
19 not in Executive Session, right?

20 A. That's accurate.

21 Q. And if you are doing a review of a
22 student disciplinary appeal the public is not
23 there, right?

24 A. I don't know, Mr. Shaw. We've never
25 done one.

1 Dorothy Ziegelbauer - Cross

2 Q. How about a 3020-a proceeding review,
3 is the public there in Executive Session?

4 A. I do not know the answer to that.
5 We've never done one.

6 Q. But you are aware that boards conduct
7 execute sessions to protect privacy rights,
8 correct?

9 A. That is the theory behind it,
10 correct.

11 Q. With respect to your response to Jeff
12 Smith, District Exhibit 6 --

13 MS. WALSH: Jeff White?

14 Q. Pardon me. Jeff White, your
15 testimony before was you're not sure whether you
16 pressed Reply or Reply All?

17 A. That's accurate.

18 Q. Do you remember what you received
19 from Jeff White, what the heading was on that
20 email that you received from him?

21 A. The Ladies and Gentlemen?

22 MS. WALSH: It was asked and
23 answered.

24 MR. SHAW: This is
25 cross-examination.

1 Dorothy Ziegelbauer - Cross

2 THE HEARING OFFICER: This is
3 cross-examination. Go ahead.

4 Q. You looked at the heading on your
5 counsel's cell phone that showed Jeff White on
6 behalf of Cairenn Broderick, right? You looked at
7 that?

8 A. Today was the first time I had seen
9 that, yes.

10 Q. And it's your testimony that that
11 didn't appear before you when you first received
12 the Ladies and Gentlemen email?

13 A. Not that I recall, no. In District
14 Exhibit -- neither of the District exhibits show
15 that.

16 Q. We've already made it clear that the
17 District exhibit isn't the same as to what
18 Mr. Olivo reviewed, correct?

19 A. Um, that's what was stated, yes. So
20 neither the Respondent exhibit or the District
21 exhibit had any relevance to what was shown --
22 had -- had that specific detail as to what was
23 shown today by Mr. Olivo.

24 Q. Right. But my question to you is
25 back to your memory of when you first received the

1 Dorothy Ziegelbauer - Cross

2 Ladies and Gentlemen email from Jeff White on
3 August 9th.

4 A. Okay.

5 Q. Whether that appeared before your
6 eyes the way it appeared on the screen during
7 Mr. Olivo's testimony.

8 A. No. I don't believe I ever looked at
9 the header. I looked at the content of the email.

10 Q. So --

11 A. And I responded accordingly.

12 Q. So you drafted a response to Jeff
13 White.

14 A. Correct.

15 Q. And who did you intend the response
16 to go to?

17 A. Jeff White, the Board, and the board
18 clerk.

19 THE HEARING OFFICER: I'd ask
20 that the witness be presented with
21 District Exhibit 6.

22 Do you have District --

23 MR. SHAW: Doesn't she have it
24 already?

25 THE HEARING OFFICER: Yes, she

1 Dorothy Ziegelbauer - Cross

2 has it.

3 A. I have it.

4 Q. Okay. I'll ask you to turn to
5 page 2. In the email stream do you see Cairenn
6 Broderick to herself, Jeff White, David Shaw,
7 Kristine DiFrancesco, Marco Margotta, Christine
8 Oliva and Rene Blume? Do you see that?

9 A. Yes.

10 Q. Did you expect to copy all those
11 people on your responsive email?

12 A. No.

13 Q. Did you look at the email before you
14 pressed Send?

15 A. Did I look down at the email below
16 Jeff White's? No.

17 The email was from Jeff to the Board.
18 I was responding to Jeff's email. I did not look
19 at the string below Jeff's email.

20 Q. And you cannot recall whether you
21 pressed Reply or Reply All.

22 A. No, as I've already testified.

23 I can only tell you my intent was
24 that it go to Jeff, the Board and the board clerk.

25 Q. And you knew that I was the chief

1 Dorothy Ziegelbauer - Cross
2 negotiator for the District in those negotiations?

3 A. Yourself and the consultant, yes.

4 Q. And is there a reason why you didn't
5 copy me on the email regarding negotiations?

6 A. Mr. White came -- Mr. White's
7 question was to the Board and did not include you,
8 so I responded to Mr. White and made sure the
9 Board and the board clerk were included. I don't
10 typically include counsel without reason.

11 Q. Your response was about the
12 negotiations, what was discussed in Executive
13 Session about bargaining, right?

14 A. That is accurate.

15 Q. And isn't it true that your response
16 was about specific strategy that had been
17 discussed in Executive Session regarding the
18 8-period day and a consultant?

19 A. That is accurate, which is why I
20 asked if something had changed that the Board had
21 not been made aware of.

22 Q. And you would agree that that
23 information in the hands of the Union chief
24 negotiator could have been very prejudicial to the
25 negotiations?

1 Dorothy Ziegelbauer - Cross

2 A. I disagree with that. No, I do not
3 believe that to be the case, because she already
4 knew that that issue was the 8- or 9-period day.
5 She already knew that the Board was -- the Board's
6 position was they wanted an 8-period day and
7 longer periods so that our students got additional
8 instructional time within their day.

9 Q. Did you know that the Board in
10 Executive Session was discussing the hiring of a
11 consultant to support the position on the 8-period
12 day?

13 A. I had no idea what she knew or did
14 not know.

15 Q. So you don't know that, right?

16 A. No.

17 Q. But you revealed that to her in fact.

18 MS. WALSH: Objection.

19 A. Inadvertently.

20 MS. WALSH: Objection.

21 Okay, she answered. That's
22 fine, she answered.

23 A. That's a statement, not a question.

24 THE HEARING OFFICER: This is
25 cross-examination.

1 Dorothy Ziegelbauer - Cross

2 Q. Am I correct --

3 THE HEARING OFFICER: The nature
4 of the questions are different.

5 Go ahead, Mr. Shaw.

6 MS. WALSH: Can you get that
7 response?

8 THE HEARING OFFICER: Excuse me?

9 MS. WALSH: I was asking the
10 court reporter if she got the response
11 because --

12 THE WITNESS: I will repeat it.

13 THE HEARING OFFICER: Because
14 there were three people talking at the
15 same time again?

16 MS. WALSH: Right.

17 THE HEARING OFFICER: Could we
18 be more respectful, please, everybody.

19 We're going to have to go back
20 to you, Kathy, to see if she had a
21 complete response.

22 (Record read as follows:

23 "But you revealed that to her in
24 fact.

25 Answer: Inadvertently.")

1 Dorothy Ziegelbauer - Cross

2 MR. SHAW: Could you go back
3 further?

4 THE HEARING OFFICER: And let us
5 know who is saying what.

6 (Record read as follows:

7 "Question: Did you know that
8 the Board in Executive Session was
9 discussing the hiring of a consultant
10 to support the position on the 8-period
11 day?

12 "Answer: I had no idea what she
13 knew or did not know.

14 "Question: So you don't know
15 that, right?

16 "Answer: No.")

17 MR. SHAW: Okay. Let's continue
18 with my questions.

19 BY MR. SHAW:

20 Q. So at the point in time August 9,
21 2021, you didn't know whether Cairenn Broderick
22 was aware that the Board was going to hire a
23 consultant to explore an 8-period day, correct?

24 A. As I just testified, I have no idea
25 what she knew or didn't know.

1 Dorothy Ziegelbauer - Cross

2 Q. But your email would have informed
3 her of that, correct?

4 A. Not if she knew it already.

5 Q. You stated there wasn't a
6 whistleblower policy in Tuxedo; is that correct?

7 A. To my knowledge, there is not one.

8 Q. And do you know whether or not
9 there's a whistleblower law in New York State?

10 A. Certainly there's a whistleblower
11 law, yes, in the state.

12 Q. And based upon your understanding,
13 wouldn't that involve a situation in the context
14 of a governmental body where someone reports to
15 the management of the body an alleged illegality
16 or impropriety?

17 A. I would say on its face, that's
18 accurate. In this situation, I would say that
19 there is no known protocol for a whistleblower
20 complaint within the context of this school
21 district and this board.

22 Q. Who would be the public authorities
23 on this board for a whistleblower to go to?

24 A. That is a fine question. I do not
25 know the answer because there is no policy that I

1 Dorothy Ziegelbauer - Cross
2 am aware of within the School District policies
3 and procedures for how a whistleblower complaint
4 is to be received, what the chain of command
5 should be, and who it should go to outside of the
6 district if there's an allegation that includes
7 the superintendent, which would be the highest
8 ranking official within the district.

9 Q. Have you ever reviewed Civil Service
10 Law Section 75-b?

11 MS. WALSH: Objection. We had
12 on my testimony, when asked for legal
13 conclusions, that was stricken and
14 she's not a legal expert.

15 THE HEARING OFFICER: Yes. I'm
16 going to allow it, though, because the
17 witness referred to the law several
18 times. So ask the question, if she
19 says she's never heard of Civil Service
20 Law, that's the answer.

21 So go ahead with your question,
22 Mr. Shaw.

23 MS. WALSH: Wait. Could I ask
24 just a question? I don't think she has
25 referred to the law.

1 Dorothy Ziegelbauer - Cross

2 THE HEARING OFFICER: Well, she
3 has several times. You can read the
4 testimony for yourself.

5 Go ahead.

6 BY MR. SHAW:

7 Q. So have you ever reviewed New York
8 State Civil Service Law Section 75-b?

9 A. Not to my knowledge. We -- I've gone
10 to trainings through board service that may have
11 referenced that specific statute, but off the top
12 of my head, I have no idea what the details of
13 that are and my board training was five years ago,
14 well six, now.

15 Q. When you were board president, do you
16 think you would have been a person to receive a
17 whistleblower complaint on behalf of the District?

18 A. I have no idea. I don't -- there is
19 no defined protocol that I'm aware of. I would
20 have believed that they would go to the highest
21 ranking district official, which in a normal chain
22 of command is the superintendent. And then, if
23 you don't get a resolution when you bring
24 something to the superintendent, then at that
25 point, they may remand it to the full board for

1 Dorothy Ziegelbauer - Cross
2 review.

3 So I would assume that would be -- if
4 there were such a protocol that would be what it
5 would entail, but I have no knowledge of any such
6 protocol in this district.

7 Q. And if the law indicated that the
8 public body could be charged with knowledge based
9 upon a trustee receiving the information, would
10 you then understand that as soon as a trustee
11 receives the information, there should be
12 consideration of a whistleblower?

13 MS. WALSH: I have an objection
14 to that. It's so far from the charges
15 and what we're discussing here.

16 THE HEARING OFFICER: Well, it's
17 actually not. It's relative to charge
18 No. 1, so...

19 MR. SHAW: It's actually
20 Charge 2.

21 THE HEARING OFFICER: Sorry.
22 Charge 2. It's the report charge.

23 MR. SHAW: Right.

24 THE HEARING OFFICER: But you
25 didn't get an answer to the question.

1 Dorothy Ziegelbauer - Cross

2 MR. SHAW: I didn't get an
3 answer.

4 A. I'm sorry. Please restate the
5 question.

6 MR. SHAW: Read it back, please.

7 (Record read as follows:

8 "Question: And if the law
9 indicated that the public body could be
10 charged with knowledge based upon a
11 trustee receiving the information,
12 would you then understand that as soon
13 as a trustee receives the information,
14 there should be consideration of a
15 whistleblower?")

16 A. No. I don't -- I don't -- that on
17 its face doesn't make any sense to me; so I'm
18 gonna say I don't understand the question, ask you
19 to rephrase it, and it's not resonating with what
20 we're talking about. You're speaking legalese and
21 I need English please.

22 THE HEARING OFFICER: Do you
23 want to follow up with another
24 question?

25 MR. SHAW: I've been accused of

1 Dorothy Ziegelbauer - Cross

2 that many times.

3 THE HEARING OFFICER: Do you
4 want to follow up with another question
5 or leave it alone?

6 MR. SHAW: I will ask another
7 question.

8 THE HEARING OFFICER: Okay.

9 BY MR. SHAW:

10 Q. I'd propose a hypothetical: There is
11 a Section 504 committee meeting where the board
12 president is a parent, the superintendent of
13 schools is a committee member and there are two
14 employees who are committee members as well. And
15 the superintendent misinforms the committee that a
16 safety net grade could be assigned to a student
17 for other than a Regents test. Would it not be
18 expected that the employees who view that as a
19 potential illegality would whistleblow to the
20 Board of Education, not the board president who
21 was at the meeting and not the Superintendent who
22 was at the meeting and gave the misinformation?

23 MS. WALSH: I have an objection
24 because this is not a hypothetical,
25 this is very close to the that

1 Dorothy Ziegelbauer - Cross
2 situation that we have here. And if
3 you're going to ask the question, you
4 may as well ask what we have here and
5 it accurate, because it was not to the
6 board president, it was to the union
7 representative. So it's not an
8 accurate -- so it's either a
9 hypothetical or it's not, but this is
10 what we have and that it's not --

11 THE HEARING OFFICER: Well, I'm
12 going to overrule the objection, and
13 allow the question to be asked and see
14 if the witness can answer. It's
15 cross-examination, hypothetical
16 questions are allowed in
17 cross-examination.

18 MS. WALSH: It's just to be
19 noted, it's not a hypothetical.
20 You can answer.

21 MR. SHAW: It is a hypothetical,
22 but in any event, I'd like it answered.

23 A. If there was in fact legitimate
24 whistleblower complaint and the superintendent and
25 the president of the board were allegedly subject

1 Dorothy Ziegelbauer - Cross
2 to that complaint, then I would expect that the
3 employees would go to the BOCES superintendent,
4 who is the superintendent of the region, to report
5 that complaint to the superintendent, the BOCES
6 superintendent, which is the area superintendent,
7 and technically would be the boss of the
8 superintendent of the district.

9 Q. Okay. That's your opinion based upon
10 a surmise of how the law would operate; am I
11 correct?

12 A. That is --

13 Q. It's a yes or no question.

14 A. I don't know that it's stipulated in
15 law what the chain of command is for a
16 whistleblower in a school district and I don't
17 believe there's any policy that reflects such.

18 Q. So it would be fair, then, to review
19 the law and see how the whistleblow is supposed to
20 occur.

21 MS. WALSH: Objection.

22 Objection. It's not relevant. I'm not
23 an attorney --

24 THE HEARING OFFICER: All right.

25 Well, with all due respect, Ms. Walsh,

1 Dorothy Ziegelbauer - Cross
2 the question of relevance is for me to
3 determine, not for the witness, and do
4 you have any further questions now,
5 Mr. Shaw for this witness?

6 MR. SHAW: I do.

7 BY MR. SHAW:

8 Q. Ms. Ziegelbauer, Trustee Castricone
9 sent you an email regarding this disclosure to
10 Cairenn Broderick on one day and you didn't
11 respond to it until the next daze. Is there a
12 reason why?

13 A. Mr. Shaw, as previously testified, I
14 had multiple family members in hospital. I don't
15 sit glued to my email when I have people who are
16 in crisis in hospital. So that's my response.

17 I also have a full-time job.

18 Q. You recall reviewing the Muenkel
19 report in Executive Session?

20 A. I do.

21 Q. And you said you actually read it
22 three times during the time before the request
23 came from Mr. White to turn it back in?

24 A. I said two or three times. I don't
25 recall.

1 Dorothy Ziegelbauer - Cross

2 Q. And in reviewing the report, did you
3 notice that there were writings regarding adults,
4 including staff members and board members, within
5 the report?

6 A. There were -- yes, staff members and
7 board members and my child were all subjects of
8 the report, that's accurate.

9 Q. And as to your child, part of the
10 report would constitute personally identifiable
11 student information, correct?

12 A. I believe that to be correct. It
13 was -- it should be construed as part of her
14 educational record that as a parent I have a right
15 to receive.

16 Q. Did you understand at the time that
17 there were FERPA rights that a parent has
18 regarding student records?

19 A. At that moment? Um, I understand
20 there is a law called FERPA and there is also a
21 law called IDEA. I'm not aware of the specific
22 rights that gives you as a parent to student
23 records.

24 Q. Okay. So you're really not familiar
25 with the nuances of the FERPA law.

1 Dorothy Ziegelbauer - Cross

2 A. Or any law. I'm not an attorney, as
3 previously stated.

4 Q. When you withheld the return of that
5 document, did you not understand that you would be
6 able to inspect and review the document at a later
7 time?

8 A. No. I had no confidence that the
9 document in its current form would ever be
10 available to me, because I had no trust that
11 anybody in this district would do anything that
12 was reasonable and ordinary given the confidential
13 information that had been breached, given the lack
14 of response in multiple venues, written, verbal,
15 et cetera, to try and get an investigation, and
16 none of that occurred until I retained counsel.
17 So, no, I had no confidence that I would ever see
18 that report again in any form.

19 Q. So you thought that the Muenkel
20 report would either be destroyed or tampered with
21 if you let it out of your grasp.

22 A. I wanted --

23 Q. -- is that your testimony?

24 A. -- to retain it for my own personal
25 understanding and review as both a board member

1 Dorothy Ziegelbauer - Redirect
2 and a parent. I was advised by counsel that there
3 was no law prohibiting my retention of that
4 document.

5 Q. When you were in the Executive
6 Session reviewing the Muenkel report on
7 September 15, 2021, did you understand your role
8 then to be as a board member --

9 A. Yes.

10 Q. -- not as a parent?

11 A. Yes.

12 MR. SHAW: No further questions.

13 MS. WALSH: I have just one or
14 two.

15 THE HEARING OFFICER: Okay.

16 Redirect.

17 REDIRECT EXAMINATION

18 BY MS. WALSH:

19 Q. Mrs. Ziegelbauer, you had -- on
20 cross-examination, Mr. Shaw had asked some
21 questions about receipt of the email on August 9th
22 at 2:44 and you said you didn't remember it. Did
23 you look back at your email to try to find the
24 original email that you found?

25 A. Do you mean did I look back in my

1 Dorothy Ziegelbauer - Redirect
2 email to find the original email sent from Jeff
3 White to me?

4 Q. Yes.

5 A. Um, yes, I did.

6 Q. And did that look like the document
7 that is in -- on the phone as Exhibit 1?

8 A. Um, the contents are the same. The
9 headings and -- are different.

10 MS. WALSH: I did have an
11 exhibit here. I just want to -- this
12 was not in evidence because it's
13 redundant, but I'll show it to
14 Mr. Shaw.

15 MR. SHAW: Isn't this within
16 D-6?

17 THE HEARING OFFICER: She has
18 D-6.

19 MS. WALSH: No. I know, but
20 that's not the question.

21 THE HEARING OFFICER: What's the
22 question?

23 MS. WALSH: She just said she
24 that she checked her email, she went
25 back and checked her email.

1 Dorothy Ziegelbauer - Redirect

2 THE HEARING OFFICER: When?
3 Today?

4 MS. WALSH: Well, I'm going to
5 ask her when. Because of these
6 concerns, I asked her to see what email
7 she actually received from Mr. White
8 and she said she checked. I'm asking
9 her if this is the email, if this is
10 what you received?

11 THE HEARING OFFICER: Is this
12 different from what we have in D-6?

13 MS. WALSH: No, but D-6 is a
14 chain, so this is --

15 THE HEARING OFFICER: That's
16 okay. Let's deal with the document
17 that's in evidence.

18 MS. WALSH: Could I show this to
19 her for ID, though? We don't have to
20 admit another document.

21 THE HEARING OFFICER: Let's find
22 it in 6 and show her where it is 6, and
23 she can deal with that.

24 MS. WALSH: Right. But this is
25 the actual document that -- that's the

1 Dorothy Ziegelbauer - Redirect

2 chain. This is the beginning of the
3 document she received from --

4 THE HEARING OFFICER: When was
5 this prepared?

6 MS. WALSH: That's what I'm
7 going to ask her.

8 THE HEARING OFFICER: This
9 afternoon?

10 MS. WALSH: No, no.

11 Do you understand what I'm
12 saying, she said that she said that
13 she --

14 THE HEARING OFFICER: I thought
15 she just said that she went back and
16 checked, when she found out there was
17 one that said on behalf of Cairenn that
18 she went back and checked and she
19 didn't find it, and if this wasn't done
20 this afternoon, how is it relevant for
21 that purpose? And if we already have
22 D-6 in, she can testify from --

23 MS. WALSH: I was trying to see
24 what the actual one she found did say.

25 THE HEARING OFFICER: Well,

1 Dorothy Ziegelbauer - Redirect

2 then, bring me D-6 and I'll look at
3 this and I'll look at that and we'll
4 decide.

5 MS. WALSH: Okay. I'll give you
6 D-6. You have the other one, too.
7 It's exactly the same.

8 Here's this one.

9 THE HEARING OFFICER: It
10 eliminates what she wrote, right?

11 MS. WALSH: Right. I'm just
12 noting, this is not the same as.

13 THE HEARING OFFICER: Unless
14 your telling me she has gone back this
15 afternoon after she learned of this to
16 see if it was something she didn't
17 notice when she received it, I don't
18 see the point. But, go ahead, ask
19 away.

20 MS. WALSH: The difference is
21 that this document is not exactly a
22 hundred percent clear and it could have
23 been forwarded, but I'll ask her.

24 BY MS. WALSH:

25 Q. Ms. Ziegelbauer, you had testified

1 Dorothy Ziegelbauer - Redirect
2 you went back to your email to look at the
3 original email you received to see if you could
4 open it and look at the document.

5 Do you recognize this document?

6 A. Yes.

7 Q. Okay. And what is this document?

8 THE HEARING OFFICER: And when
9 did she go back to look this up?

10 MS. WALSH: Mm-hmm.

11 A. The document reflects --

12 THE HEARING OFFICER: What
13 document? Are you looking at D-6 now
14 or are you looking at the piece of
15 paper that your lawyer just gave you?

16 THE WITNESS: One is a subset of
17 the other. So D-6, on August 9th at
18 12:53, the email from Jeff White
19 starting with "Ladies and Gentlemen."
20 The document I was just handed is
21 exactly that email that's on the bottom
22 half of the page without my response on
23 it.

24 THE HEARING OFFICER: Right.

25 Q. And the question was, did you look

1 Dorothy Ziegelbauer - Redirect
2 back at your email to find rather than the chain
3 of emails, the original email that you received
4 from Jeff White?

5 A. Yeah. I couldn't find any email.
6 Um, this was the only email that I could locate
7 it -- locate, and it, in his language, the Ladies
8 and Gentlemen and the salutation being from Jeff,
9 um, in my mind was clearly from Jeff and I didn't
10 even realize that, um, Cairenn Broderick was on it
11 at all until it was pointed out to me.

12 Q. So in your inbox, you didn't find an
13 email that said From Jeff White On behalf of
14 Cairenn Broderick; is that correct?

15 A. No, I didn't.

16 THE HEARING OFFICER: When?

17 MS. WALSH: I'm asking her --
18 when did you look for that -- let me
19 just clarify.

20 Q. When did you look for the email? It
21 wasn't today, correct, because we were here?

22 A. No.

23 Q. So when did you look for the email?

24 A. Um, honestly I don't recall if it was
25 before the last hearing or between the last

1 Dorothy Ziegelbauer - Redirect

2 hearing and the continuation of it here.

3 Q. Why did you want to find that
4 original, the initial email?

5 A. Because I couldn't -- before, it
6 must have been before the first hearing because I
7 couldn't understand how an email from Jeff White
8 came from Cairenn Broderick.

9 Q. And just to clarify, the email that
10 you have in front of you is the same, it looks the
11 same as what's in --

12 A. D-6. It is exactly the same. It's
13 the email on the bottom half of the page before my
14 response, yes.

15 MS. WALSH: I don't think we
16 have to admit it. I just wanted to...

17 Q. In regard to the whistleblowing and
18 the retention of the Muenkel report, Mr. Shaw
19 presented a hypothetical in which he asked about
20 theoretically if school employee had a concern
21 about a Board of Education -- a school official
22 and another administrator and whether the Board
23 had a duty to report that.

24 MS. WALSH: Is that fair?

25 MR. SHAW: I think the

1 Dorothy Ziegelbauer - Redirect
2 hypothetical was more developed than
3 that.

4 MS. WALSH: Okay.

5 MR. SHAW: So I don't think it's
6 fair.

7 MS. WALSH: I guess we can't
8 read it back, okay.

9 BY MS. WALSH:

10 Q. There was a hypothetical that
11 Mr. Shaw had read out about the 504 Plan and the
12 concern that a school official had --

13 MS. WALSH: Perhaps we should
14 just read it back because it would be
15 easier, if you could find it.

16 MR. SHAW: Or if she could
17 recall the hypothetical, we could have
18 the question without it.

19 THE WITNESS: I would prefer it
20 be read back.

21 (Record read as follows:

22 "Question: I'd propose a
23 hypothetical: There is a
24 Section 504 committee meeting
25 where the board president is a

1 Dorothy Ziegelbauer - Redirect
2 parent, the superintendent of
3 schools is a committee member
4 and there are two employees who
5 are committee members as well.
6 And the superintendent
7 misinforms the committee that a
8 safety net grade could be
9 assigned to a student for other
10 than a Regents test. Would it
11 not be expected that the
12 employees who view that as a
13 potential illegality would
14 whistleblow to the Board of
15 Education, not the board
16 President who was at the meeting
17 and not the superintendent who
18 was at the meeting and gave the
19 misinformation?")

20 BY MS. WALSH:

21 Q. And my question to you is, is that
22 hypothetical at all familiar to you?

23 A. It is, and upon hearing the question
24 again on the hypothetical, I would think that the
25 proper protocol if the employees had concern about

1 Dorothy Ziegelbauer - Redirect
2 the board president and the superintendent that
3 they would have taken that concern to the vice
4 president of the board in lieu of taking it to the
5 BOCES superintendent.

6 Q. And now you had mentioned I think in
7 your answer that you felt this would apply to a
8 legitimate allegation, a legitimate concern.

9 In this hypothetical would you expect
10 the mental health or the professionals, be they a
11 psychologist or a guidance counselor, to have an
12 understanding enough of the safety net to
13 understand the difference between advocacy and
14 whistleblowing or advocacy and inappropriate
15 action?

16 A. Yes, I would assume that both
17 district staff and the employees that were as part
18 of the CSE meeting, that's a routine part of their
19 job, so I would expect them to understand those
20 fine points.

21 Q. In the hypothetical, would you
22 consider it appropriate to report the
23 whistleblowing concern to the union president?

24 A. No. I don't believe that's accurate
25 at all because the union president is not in the

1 Dorothy Ziegelbauer - Recross
2 chain of command for the district. Generally
3 speaking, you must go through the chain of command
4 when you're reporting any issue, and the chain of
5 command clearly is the superintendent and then the
6 board as a whole or the board president, and if
7 lieu of the board president, I would believe that
8 it should have been reported to the full board
9 vice president, who then could take it to the
10 remainders of the board.

11 MS. WALSH: I think that's all I
12 have right now, unless you and the
13 hearing officer have questions.

14 MR. SHAW: I just have one more.

15 THE HEARING OFFICER: Recross.

16 RE CROSS-EXAMINATION

17 BY MR. SHAW:

18 Q. Your belief is not necessarily
19 founded in how the law is expressed; am I correct
20 about that?

21 A. As previously stated, I am unaware of
22 the fine points of the law as I am not an
23 attorney.

24 MR. SHAW: No further questions.

25 THE HEARING OFFICER: All right.

1 Dorothy Ziegelbauer - Recross
2 The witness is excused. Thank you very
3 much, Ms. Ziegelbauer.

4 MS. WALSH: I just want to
5 clarify, We finished her testimony,
6 we'll keep confidential, but I will
7 consult with her. I didn't want to
8 consult with her during her time, but I
9 have to consult with her whether she
10 wants to call any other witnesses in.

11 THE HEARING OFFICER: Okay.
12 Keep it short, okay?

13 MS. WALSH: We can take --

14 MS. HORNEFF: Can we take a bio
15 break?

16 THE HEARING OFFICER: Oh, yes,
17 yes, bio break, five minutes.

18 (Recess taken)

19 THE HEARING OFFICER: Your next
20 witness is?

21 MS. WALSH: I am going to call
22 William Givens.

23 THE HEARING OFFICER: Mr.
24 William Givens, please take the witness
25 share.

1 William Givens - Direct

2 (William Givens is called as a
3 witness and takes the stand.)

4 THE HEARING OFFICER: Mr.
5 Givens, would you raise your right
6 hand.

7 Do you swear to tell the truth,
8 the whole truth, and nothing but the
9 truth with respect to the testimony
10 that you're about to give?

11 THE WITNESS: I do.

12 THE HEARING OFFICER: Your
13 witness.

14 WHEREUPON,

15 WILLIAM GIVENS,
16 called as a witness herein, having
17 been first duly sworn, is examined
18 and testifies as follows:

19 DIRECT EXAMINATION

20 BY MS. WALSH:

21 Q. Thank you, Mr. Givens. We'll make
22 this as short as possible. Thank you for being
23 here for the day.

24 Could you just let me know how long
25 you have been on the Board of Education?

1 William Givens - Direct

2 A. Four months, I think. It started on
3 July 1st.

4 Q. Have you had the opportunity to do
5 the mandatory board training yet?

6 A. I have not completed that.

7 Q. I believe -- could you just tell me a
8 little bit about, very quickly, your educational
9 background?

10 A. I have a Bachelor of Science in
11 economics and finance with a minor in computer
12 science.

13 Q. From?

14 A. SUNY Cortland.

15 Q. I'm sorry?

16 A. SUNY Cortland.

17 Q. Now, I have one question before we
18 get to the ones on the Executive Session. At the
19 last hearing date, I think you took offense when I
20 asked a question whether you could be impartial
21 and not be beholding the board president; is that
22 right?

23 A. I did. I --

24 MR. SHAW: I'm going to object
25 to this line of questioning.

1 William Givens - Direct

2 THE HEARING OFFICER: Now, do
3 you want to make a -- I can take the
4 two of you outside for a minute and
5 talk about where you're going with
6 this.

7 MS. WALSH: It's only one
8 question.

9 THE HEARING OFFICER: You're
10 accusing him of taking offense?

11 MS. WALSH: He just said --

12 BY MS. WALSH:

13 Q. Did you take offense?

14 A. I was --

15 THE HEARING OFFICER: No.
16 There's an objection so you don't ask
17 it.

18 So you have a witness on the
19 stand. You start out by saying you
20 took offense. So what's the question
21 in that?

22 MS. WALSH: The question is --

23 THE HEARING OFFICER: How about
24 did you take offense? Not you took
25 offense.

1 William Givens - Direct

2 MS. WALSH: Yes. That's what I
3 said.

4 Q. Did you take offense at the
5 statement?

6 A. Yes.

7 MR. SHAW: I'm --

8 THE HEARING OFFICER: Hold on,
9 Mr. Shaw. Hold on, Mr. Shaw.

10 Mr. Shaw, you have an objection.
11 What is it?

12 MR. SHAW: My objection is that
13 at this point it appears that she's
14 trying to poll board members regarding
15 their impartiality.

16 THE HEARING OFFICER: I'm going
17 to allow the question.

18 You said you had four questions,
19 five questions for Mr. Givens. Let's
20 go. That's one.

21 You want to ask the question
22 again?

23 MS. WALSH: Yes.

24 THE HEARING OFFICER: Do you
25 have the question? We didn't get the

1 William Givens - Direct

2 question out, actually, did we?

3 MS. WALSH: I said, did you take
4 offense.

5 THE HEARING OFFICER: To what?

6 MS. WALSH: At the statement I
7 was asked at last hearing date whether
8 I thought that the board members were
9 under the influence of the board
10 president and I didn't say exactly yes
11 but I hesitated and I asked if Mr.
12 Givens took offense, and he just
13 said --

14 THE WITNESS: I will answer the
15 question.

16 A. I felt it was an offensive statement.

17 BY MS. WALSH:

18 Q. And why was that?

19 A. 'Cause you were inferring that we
20 would not be impartial or that we -- frankly, I
21 was insulted that you implied that we were under
22 Dan's thumb, is basically what you were saying.

23 Q. So you will be impartial in this
24 hearing.

25 A. Absolutely.

1 William Givens - Direct

2 Q. How long have you worked with Dorothy
3 on the Board of Education?

4 A. Four months.

5 Q. And has there been any time when she
6 was not subject to --

7 (Court reporter clarification)

8 Q. Has there been any time that these
9 charges -- I'll strike that. Never mind. It
10 speaks for itself.

11 So as to the Executive Session on
12 September 15th, do you know the one I'm referring
13 to?

14 A. Yes.

15 Q. Did you attend the Executive Session?

16 A. I did.

17 Q. Okay. And if you recall, just to
18 make sure we're on the right date, what was the
19 purpose of the Executive Session?

20 A. I believe, although correct me if I'm
21 wrong, this was the session we went over the
22 Muenkel report.

23 Q. And do you recall how this meeting
24 was noticed to the public?

25 A. I don't.

1 William Givens - Direct

2 Q. And were you aware before the meeting
3 that Mr. White was giving out the Muenkel report?

4 A. I was not.

5 Q. Had you had any conversations about
6 it before that meeting?

7 A. I did not.

8 Q. Had you seen it before that meeting?

9 A. I had not.

10 Q. Did Mr. White explicitly state at
11 that meeting that he was giving the Muenkel report
12 out at the meeting before he indeed gave it out,
13 if you recall?

14 A. Could you rephrase.

15 Q. Yes. At the meeting before Mr. White
16 gave out the Muenkel report did he explicitly
17 state he was indeed giving out the Muenkel report?

18 A. I don't recall.

19 Q. Who in fact requested the
20 investigation that led to the Muenkel report, if
21 you recall?

22 A. Ms. Ziegelbauer.

23 Q. And do you recall why?

24 A. Um, I mean, it was less of a request
25 and more of a demand, I would say. But do I

1 William Givens - Direct

2 recall why? I think she wanted to -- well, I
3 don't want to get into what I think so I...

4 Q. What information did you have, not
5 just what you think, of why she requested the
6 Muenkel report.

7 A. She was clearly upset about a
8 perceived disclosure of information.

9 Q. And you said a perceived disclosure
10 of information?

11 MR. SHAW: That's what he said.

12 Q. What did you mean by that?

13 A. I think she felt as though -- you
14 know, I feel uncomfortable speculating on what she
15 felt, but she felt as though there was a privacy
16 breach.

17 Q. Do you think the report, the Muenkel
18 report, upon your review contained confidential
19 information?

20 A. Yes.

21 Q. Okay. What was confidential?

22 A. Well, I think -- speaking for myself
23 as a board member, I was told the report would be
24 confidential and would not be released, so that in
25 itself was confidential in my view.

1 William Givens - Direct

2 Q. And you understood that Dorothy, that
3 Trustee Ziegelbauer did agree to keep it
4 confidential, correct?

5 A. I don't recall what she agreed to or
6 not.

7 Q. Did you hear her testify that she
8 kept it confidential?

9 A. I heard her testify to that today.

10 Q. Do you have any evidence that Trustee
11 Ziegelbauer released any information in the report
12 to anyone?

13 A. Rephrase?

14 Q. Do you have any evidence or
15 information that Trustee Ziegelbauer released any
16 information in the Muenkel report to anyone?

17 A. I do not.

18 Q. So you have no knowledge or
19 documentation that should released confidential
20 information from an Executive Session; is that
21 correct?

22 A. None.

23 Q. I'm sorry. So it is correct?

24 A. I have no knowledge of any release of
25 information.

1 Proceedings

2 MS. WALSH: I think that's all I
3 have.

4 THE HEARING OFFICER: All right.
5 Mr. Shaw?

6 MR. SHAW: I have a question.

7 THE HEARING OFFICER: Yes.

8 MR. SHAW: I'd like to present
9 him with IHO-1, which I have on my
10 phone queued up.

11 MS. WALSH: Which one is that?

12 MR. SHAW: Tony, today at 1:04.

13 THE HEARING OFFICER: It's the
14 email.

15 MS. WALSH: But we didn't --
16 that wasn't part of my...

17 MR. SHAW: Well, that doesn't
18 matter. I'm calling him as my witness
19 right now.

20 THE HEARING OFFICER: You're
21 calling him as your witness. Okay.

22 MS. WALSH: That wasn't covered
23 in my --

24 THE HEARING OFFICER: We talked
25 about that.

1 Proceedings

2 MS. WALSH: Are you going to
3 have cross-examination first, though?

4 MR. SHAW: Well, the real
5 question is the economy of this
6 hearing. To have to wait to call him
7 back for this one question to a later
8 time in the hearing, is that what you
9 want?

10 MS. WALSH: I didn't mean later
11 time. I meant ask your
12 cross-examination first and then ask
13 that question. It just has to be in
14 order.

15 MR. SHAW: Oh, no. I'm
16 satisfied with the answers to your
17 questions.

18 MS. WALSH: Okay. So just to
19 clarify for the record then, you're
20 finished with cross.

21 MR. SHAW: Yes.

22 MS. WALSH: And you are calling
23 him.

24 THE HEARING OFFICER: So we're
25 clarifying for the record that we are

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Proceedings

finished with the direct exam by
Ms. Walsh, that there is no cross-exam
by Mr. Shaw and Mr. Shaw is making
Mr. Givens his witness, so his
questions will be in the nature of
direct, which will provide Ms. Walsh an
opportunity to cross.

(6:00 p.m.)

MS. WALSH: Except that we
already rested the District's case, so
it would have to be rebuttal testimony.

MR. SHAW: It is a rebuttal
witness, yes.

MS. WALSH: Well then, he really
should be called after Mr. Castricone.

MR. SHAW: Well, that's the
whole point. Do we really need to go
through that degree of formality to
wait to bring him back as a witness or
just ask him the simple question.
That's what I'm getting it.

MS. WALSH: I'll reserve my
rights to object but I'll listen.
Let's move forward.

1 William Givens - Rebuttal Direct

2 THE HEARING OFFICER: No, you
3 don't have to reserve rights to object.
4 We can stay here. If you have another
5 witness, we'll finish and then we'll go
6 back to Mr. Shaw and he can recall
7 Mr. Givens or he can ask the one
8 question now. It's entirely up to you.

9 MS. WALSH: You can ask the
10 question. Let's just get it.

11 MR. SHAW: Thank you.

12 (William Givens is called as a
13 rebuttal witness out of order and
14 remains sworn.)

15 REBUTTAL DIRECT EXAMINATION

16 BY MR. SHAW:

17 Q. I'm presenting the witness with
18 what's in evidence as Impartial Hearing Officer or
19 Hearing Officer No. 1, and I'd ask you to take a
20 look at the way that that email is addressed and
21 if you recall whether or not that's how it was
22 addressed to you when you received the email from
23 Dorothy?

24 A. So it's addressed From Jeff White on
25 behalf of Cairenn Broderick. Um, I don't recall

1 William Givens - Rebuttal Direct
2 whether or not this is how it was addressed to me.

3 MR. SHAW: Thank you.

4 THE HEARING OFFICER: Anything
5 further?

6 MR. SHAW: No.

7 THE HEARING OFFICER: Anything
8 further, Ms. Walsh?

9 MS. WALSH: No.

10 THE HEARING OFFICER: The
11 witness is excused.

12 (William Givens is excused as a
13 witness and leaves the witness stand.)

14 THE HEARING OFFICER: Next
15 witness.

16 MS. WALSH: Just Mr. Castricone,
17 please.

18 THE HEARING OFFICER: Mr.
19 Castricone, please take the witness
20 stand.

21 (Daniel Castricone is called as
22 a witness and takes the witness stand.)

23 THE HEARING OFFICER: Mr.
24 Castricone, please raise your right
25 hand.

1 Daniel Castricone - Direct

2 Do you swear to tell the truth,
3 the whole truth, and nothing but the
4 truth with respect to the testimony
5 that you're about to give.

6 THE WITNESS: I do.

7 THE HEARING OFFICER: Your
8 witness, Ms. Walsh.

9 WHEREUPON,

10 DANIEL CASTRICONE,
11 called as a witness herein, having
12 been first duly sworn, is examined
13 and testifies as follows:

14 DIRECT EXAMINATION

15 BY MS. WALSH:

16 Q. Thank you, Mr. Castricone, just a few
17 questions for you.

18 When did Superintendent Jeff White
19 begin work in the district?

20 A. July the 1st.

21 Q. And did you work with
22 Mrs. Ziegelbauer on -- were you part of the
23 superintendent search committee?

24 A. I was.

25 Q. What is your understanding in

1 Daniel Castricone - Direct
2 relation to the testimony we've heard for the
3 protocol for filing a whistleblower complaint
4 within the district?

5 A. I'm sorry. I'm not sure quite I
6 understand. Could you run that by me again?

7 Q. What is your --

8 A. You just asked me based on the
9 testimony I heard today, so...

10 Q. So the question is, what is your
11 understanding of the protocol for filing a
12 whistleblower complaint within the district?

13 A. I would think that a district
14 employee should notify the superintendent or the
15 principal of the school that they work at in if
16 there's a complaint that would qualify as
17 whistleblower unless those persons were involved
18 in the alleged wrongdoing. Then they would need
19 to seek the board president unless the board
20 president was involved in that alleged wrongdoing.
21 Then I think they would need to seek out, I don't
22 know, Ms. Ziegelbauer suggested someone from
23 BOCES, that might seem appropriate. In this
24 school, you know, they might seek out a board
25 member, that would seem appropriate. If people

1 Daniel Castricone - Direct
2 were concerned about employment or losing their
3 jobs, they might want to seek out the union rep
4 that might seem appropriate.

5 I would say that there are many
6 pathways that someone might take depending on what
7 was open to them and what was blocked.

8 Q. If there was a legitimate
9 whistleblower complaint against Trustee
10 Ziegelbauer, do you know why Mr. White was never
11 made aware of it?

12 MR. SHAW: Could we root this in
13 time.

14 THE HEARING OFFICER: That's a
15 good idea.

16 Q. From the period from April 2021 up to
17 September, I think it's September or up to
18 July 8th, 2021, first of all, was there any
19 whistleblower complaint filed that you know of?

20 A. Define filed.

21 Q. Was there a written complaint given
22 to anyone that was -- did you ever see of a
23 written complaint? Did you ever know of a written
24 complaint?

25 A. No.

1 Daniel Castricone - Direct

2 Q. Okay. And just to the last question,
3 from April 2021 up to the date of today, do you
4 have any knowledge of any whistleblower, written
5 whistleblower complaint being sent to anyone in
6 the district regarding these allegations?

7 A. I believe that the complaint was
8 eventually memorialized in writing in the Muenkel
9 report.

10 Q. Is that a whistle -- you're calling
11 the Muenkel report a whistleblower complaint? I'm
12 asking if an employee ever filed anything or wrote
13 anything.

14 MR. SHAW: So the nuance here is
15 whether it was in writing versus
16 stated?

17 THE HEARING OFFICER: Is that
18 the question?

19 MS. WALSH: Yes.

20 THE HEARING OFFICER: Whether
21 anything was in writing?

22 MS. WALSH: Well, I have a
23 question whether -- yeah, I'm asking
24 about whether there's anything in
25 writing or was there anything verbally

1 Daniel Castricone - Direct
2 before the Muenkel report that
3 Mr. White was aware of before --

4 THE HEARING OFFICER: Can you
5 ask a question?

6 A. I don't know what Mr. White was aware
7 of or wasn't aware of.

8 BY MS. WALSH:

9 Q. Did he ever talk to you about it,
10 receiving any whistleblower complaint from
11 April 1st, April 2021 to July 8th?

12 THE HEARING OFFICER: I have a
13 question about that because you're
14 asking whether Mr. White, Dr. White
15 ever received a whistleblower complaint
16 from April to July 8th, and it's my
17 understanding he started working
18 July 1st.

19 MS. WALSH: Right. So it would
20 be from July 1st up to --

21 THE HEARING OFFICER: To July 8th?

22 MS. WALSH: No, up to now. Up
23 to the present.

24 A. When I received the complaint,
25 Ms. Ziegelbauer was still the board president. So

1 Daniel Castricone - Direct
2 that was before Mr. White was superintendent.

3 BY MS. WALSH:

4 Q. And you said you received a
5 complaint, was that an official complaint?

6 A. Define official. Again, we are back
7 to this. Was it in writing? Is that what you're
8 asking me. The answer is no. Again, it wasn't in
9 writing.

10 Q. How was it communicated?

11 A. It was communicated to me verbally.

12 Q. And what was stated?

13 MR. SHAW: I'm going to object
14 now to getting into the details of this
15 whistleblowing issue. The fact is that
16 he's referred to being approached, and
17 this relates back to the hypothetical,
18 which refers to the former
19 superintendent misinforming the
20 committee, including the two employees,
21 regarding whether or not the safety net
22 applicable to Regents would apply to a
23 grade that isn't a Regents grade.

24 THE HEARING OFFICER: Ms. Walsh,
25 do you want to be heard on that

1 Daniel Castricone - Direct
2 objection?

3 MS. WALSH: I want to know when
4 we talk about official, I need to know
5 what was reported to Mr. Castricone,
6 because an official -- I want to know
7 what was reported to find out if what
8 was said -- because it does make a
9 difference how it was said and what was
10 said.

11 BY MS. WALSH:

12 Q. Did anybody express retaliation to
13 you?

14 A. I agreed to participate in the
15 investigation that Ms. Ziegelbauer asked to have
16 done on the assurances that anyone that I named
17 would remain confidential, okay?

18 People came to me stating that there
19 were issues with -- well, I don't want to get into
20 exactly what the issues were. But now you're
21 asking me again to name the names in this hearing,
22 which will not remain confidential and I'm not
23 gonna name any of these people's names.

24 Q. I don't need to have the names. I
25 need to know what was said. That's all I need to

1 Daniel Castricone - Direct

2 know.

3 A. What was reported to me was that --
4 okay, what was reported to me was that
5 Mrs. Ziegelbauer and the former superintendent
6 were attempting to fix -- change the grading
7 policy of the school to make 55 -- make 50 passing
8 since 50 is the minimum grade that we were put on
9 any child's report card and that would in effect
10 take any child and not make it possible for them
11 to fail.

12 There was grave concerns reported to
13 me because this was being conducted by the school
14 board president and the superintendent of schools,
15 and these folks had no where -- didn't know where
16 else to go with this information.

17 Q. And this was regarding the
18 Section 504 Safety Net?

19 A. I've never heard that before.

20 MS. WALSH: Could I just ask you
21 to read the question, because I don't
22 think that was responsive to the
23 question exactly.

24 (Record read as follows:

25 "Question: I don't need

1 Daniel Castricone - Direct
2 to have the names. I need to
3 know what was said. That's all
4 I need to know."

5 MR. SHAW: And he answered that.

6 THE HEARING OFFICER: Yes, it
7 was responsive. Do you have another
8 question?

9 MS. WALSH: Could I just ask you
10 to read the one before that.

11 (Record read as follows:

12 "MS. WALSH: I want to know when
13 we talk about official, I need to know
14 what was reported to Mr. Castricone,
15 because an official -- I want to know
16 what was reported to find out if what
17 was said -- because it does make a
18 difference how it was said and what was
19 said.

20 "Question: Did anybody express
21 retaliation to you?

22 "Answer: I agreed to
23 participate in the investigation that
24 Ms. Ziegelbauer asked to have done on
25 the assurances that anyone that I named

1 Daniel Castricone - Direct
2 would remain confidential, okay?

3 "People came to me stating that
4 there were issues with -- well, I don't
5 want to get into exactly what the
6 issues were. But now you're asking me
7 again to name the names in this
8 hearing, which will not remain
9 confidential and I'm not gonna name any
10 of these people's names.")

11 BY MS. WALSH:

12 Q. Now were these indeed official
13 complaints, is my question? Did someone say to
14 you --

15 A. I considered them official
16 complaints.

17 Q. And are you a designated person to
18 receive whistleblower complaints in the district,
19 either informally or formally?

20 A. I am a school board trustee charged
21 with making sure that the school is run well. So
22 I would think yeah.

23 Q. Did the individuals indicate that
24 they had reported anything officially to the
25 superintendent, Superintendent White?

1 Daniel Castricone - Direct

2 A. The superintendent was who they were
3 complaining about.

4 Q. I'm. Sorry, to the new
5 superintendent, the Superintendent White when he
6 became involved on July 1st, 2021.

7 A. I didn't have any conversations with
8 any of these people after July 1st when
9 Superintendent White came on, so I have no idea.

10 Q. When he came on in July, July --
11 around July 1st, did you report these concerns to
12 him aside from the July 8th meeting?

13 A. As board president I've had hundreds
14 and hundreds of conversations with Mr. White. I
15 can't recall what we talked about in any of them.

16 Q. And do you have any knowledge of when
17 he started on July 1st up to the time of the
18 report whether he was aware of these
19 "whistleblower complaints"?

20 A. Well, he certainly read the Muenkel
21 report.

22 Q. Up to the -- I'm sorry.

23 A. I'm sure he was aware of it.

24 Q. Before the time of the Muenkel
25 report.

1 Daniel Castricone - Direct

2 A. I don't know.

3 Q. And do you have any understanding of
4 the 504 Safety Net?

5 A. Not until I read the Muenkel report.

6 Q. And would you expect your individuals
7 who work in special education to have an
8 understanding of the effects of the Section 504
9 Safety Net?

10 A. Yeah. Assuming there is such a
11 thing.

12 Q. Specific to the Muenkel report, in
13 fact, did anyone actually -- did anyone actually
14 request that a grade be changed?

15 A. I have no idea.

16 Q. Didn't the Muenkel report actually
17 state that did not happen?

18 A. You're accepting everything in the
19 Muenkel report as fact.

20 Q. And you're not?

21 A. No.

22 Q. So you still believe that a grade was
23 changed or --

24 A. No. I'm just not willing to accept
25 everything that was said in the Muenkel report as

1 Daniel Castricone - Direct
2 fact. These are the opinions and recollections
3 and perceptions of a dozen people.

4 Q. Did the Muenkel report, if you
5 recall, explain what the Section 504 Safety Net
6 was? Do you recall what was reported there?

7 A. I think it did.

8 Q. What is your understanding of it now?

9 A. I've heard, and my understanding is
10 more from conversations with counsel about
11 differences in changing passing for Regents and
12 non Regents, but we only had the Muenkel report
13 for, you know, five or ten minutes. I managed to
14 read it once and hand it back.

15 Q. So are you --

16 A. I certainly can't --

17 Q. I'm sorry. I didn't mean to
18 interrupt you. Go ahead.

19 A. You know, I certainly can't opine on
20 the details of the Muenkel report.

21 Q. So are you -- do you have any
22 knowledge of New York State Education Law and
23 Regulations on the Safety Net requirements, the
24 Safety Net options for students with disabilities
25 and a high school diploma?

1 Daniel Castricone - Direct

2 A. No.

3 Q. Again, would you expect your special
4 education staff to have an understanding?

5 A. Yes.

6 Q. And if a parent is asking a question
7 on a section -- about a Section 504 Plan as
8 hypothetical and advocating for help for her
9 child, wouldn't you expect the mental health
10 professionals or the professionals, special
11 education professionals involved to be able to
12 answer her question?

13 A. Not only that but, you know, I
14 brought a child from two years of age through
15 graduating high school through the special
16 education program in this school district, and
17 I've had my own personal experiences and it's been
18 outstanding and has produced a, you know, a
19 college graduate son of mine whom I'm very proud
20 of.

21 So, yeah, I have no qualms about the
22 special education people in this district.

23 Q. I'm sorry. That was nonresponsive
24 because I asked whether -- so you said you would
25 expect the special -- the individuals to have an

1 Daniel Castricone - Direct
2 understanding of the Section 504 Safety Net and to
3 be able to answer a parent's questions; is that
4 right?

5 A. Yes.

6 Q. And in fact, instead of that
7 happening in this hypothetical, isn't it true that
8 they reported that she was colluding with the
9 superintendent?

10 A. I don't know what they did besides
11 what was reported to me.

12 Q. But when they talked to you, did they
13 mention the Section 504 Safety Net?

14 A. No.

15 MS. WALSH: We can look at -- I
16 just want to look at the Muenkel report
17 in camera. It is in camera.

18 THE HEARING OFFICER: The
19 Muenkel report, which is now designated
20 as an in-camera inspection document.

21 MR. SHAW: I think she's
22 exhausted his recollection of his ten
23 minutes with the report. What does she
24 intend to do now?

25 THE HEARING OFFICER: Right.

1 Daniel Castricone - Direct

2 MS. WALSH: Well, he doesn't
3 remember and -- anyway.

4 Q. Would seeing the Muenkel report about
5 which you indicated you didn't remember certain
6 things help refresh your recollection?

7 A. Refresh my recollection of what? You
8 asked me what the people said.

9 Q. I asked you a question specific to
10 the Muenkel report, in fact, did the report find
11 that anyone actually requested that a grade be
12 changed?

13 MR. SHAW: No. He is not
14 supposed to testify to the contents of
15 the Muenkel report, which is subject to
16 in-camera review.

17 THE HEARING OFFICER: Exactly.

18 MR. SHAW: And it should stop
19 now.

20 THE HEARING OFFICER: Yes.
21 Ms. Walsh, do you have questions about
22 the charges?

23 MS. WALSH: I have a few, yes.

24 BY MS. WALSH:

25 Q. Can I just ask wasn't there in fact

1 Daniel Castricone - Direct
2 an exoneration of Mrs. Ziegelbauer report?

3 MR. SHAW: I'm going to object
4 to that also.

5 THE HEARING OFFICER: I'm going
6 to sustain the objection. The report
7 will speak for itself at such time as
8 it is either examined in camera or made
9 part of the record by order of the
10 Commissioner down the road.

11 So right now it's not in
12 evidence. This gentleman did not write
13 it, he's is not responsible for its
14 content, and I'm having a hard time
15 seeing how you're connecting this to
16 the charge of the board member not
17 giving it back when asked.

18 MS. WALSH: Because it has to do
19 with the confidential information in
20 the report.

21 In any event, okay. It's
22 important to note whether there were
23 indeed legitimate whistleblower
24 complaints and how that played out, for
25 the record.

1 Daniel Castricone - Direct

2 MR. SHAW: Not for this hearing.

3 MS. WALSH: I have three more
4 questions.

5 THE HEARING OFFICER: All right.

6 MS. WALSH: I have three more
7 questions. Let me just get through.

8 BY MS. WALSH:

9 Q. Is it true that the information that
10 you shared in the Executive Session on July 8,
11 2021, was indeed specific to Trustee Ziegelbauer's
12 daughter and the question --

13 MR. SHAW: I'm going to object
14 to that again. It's so beyond the
15 scope of this proceeding.

16 THE HEARING OFFICER: Ms. Walsh,
17 we have two charges here. I can remind
18 you what they are. They do not have to
19 do with the content of the Muenkel
20 report.

21 Q. Mr. Castricone, do you have any
22 knowledge or information that Trustee Ziegelbauer
23 released any information in the report to anyone?

24 A. One thing I did find interesting was
25 during the public comments at the beginning of the

1 Daniel Castricone - Direct
2 last meeting a gentleman yelled information at us
3 that he could only have learned from being in the
4 Executive Session with us or if he had information
5 of what was in the report. So that, you know,
6 direct knowledge? No. Inference? Perhaps.

7 Q. What comments were you referring to?

8 A. He yelled at us the information you
9 just tried to solicit from me that counsel
10 objected to about what was said at the July 8th
11 meeting.

12 Q. You're talking about the public
13 session of a person commenting? That isn't in the
14 record, but do you recall specifically what the
15 allegations were that this person --

16 MR. SHAW: I am going to object.
17 This is the third indirect approach to
18 getting some of the content of the
19 Muenkel report into the record of this
20 proceeding.

21 MS. WALSH: No. He brought it
22 up. I didn't bring it up.

23 THE HEARING OFFICER: He brought
24 it up in response --

25 MR. SHAW: He's your witness.

1 Daniel Castricone - Direct

2 MS. WALSH: I understand that,
3 but I did not ask that. That was not
4 my question.

5 THE HEARING OFFICER: Well, your
6 question was, do you have any
7 information --

8 MS. WALSH: Yes.

9 THE HEARING OFFICER: -- that
10 Ms. Ziegelbauer disclosed any of the
11 confidential information --

12 MS. WALSH: And do you know --

13 THE HEARING OFFICER: -- and he
14 said somebody came to the last board
15 meeting and yelled something that could
16 only have come from the report or the
17 Executive Session. He answered the
18 question.

19 MS. WALSH: And that's a very
20 sweeping statement. I'm trying to
21 narrow down what he was speaking of.

22 THE HEARING OFFICER: Well, I'd
23 suggest you move on to the charges.

24 BY MS. WALSH:

25 Q. Do you have any knowledge or evidence

1 Daniel Castricone - Direct
2 that Mrs. Ziegelbauer released the information or
3 the report to anybody?

4 A. Other than that? No.

5 Q. And so you have no knowledge or
6 documentation that she released confidential
7 information from Executive Session, correct?

8 MR. SHAW: Wait a second.

9 THE HEARING OFFICER: With
10 respect to that report or the other
11 charges? What are you talking about
12 now?

13 MS. WALSH: With respect to the
14 report.

15 THE HEARING OFFICER: It's a
16 very general question.

17 MS. WALSH: With respect to the
18 charge.

19 MR. SHAW: The report --

20 (Court reporter interruption)

21 THE HEARING OFFICER: When you
22 ask a question do you have any
23 information that she released
24 confidential information from Executive
25 Session --

1 Daniel Castricone - Direct

2 MS. WALSH: From the report,
3 yes. I meant from the report.

4 THE HEARING OFFICER: Well you
5 didn't say from the report.

6 MS. WALSH: That was from the
7 prior. Okay.

8 BY MS. WALSH:

9 Q. From the report, do you have any
10 knowledge?

11 MR. SHAW: Asked and answered.

12 Q. You may answer.

13 THE HEARING OFFICER: Sustained.

14 MS. WALSH: Okay.

15 THE HEARING OFFICER: Anything
16 else, Ms. Walsh?

17 Q. Just to follow up with the question,
18 isn't it true that any person who read that
19 report, any person who read the report, including
20 any board member could have been the source of
21 that information, whatever the information was?

22 MR. SHAW: I'm going to object
23 to the relevance of that.

24 THE HEARING OFFICER: And I'm
25 going to sustain it also as to

1 Daniel Castricone - Direct
2 speculation.

3 Q. Let me just ask you one more. Do you
4 as a board trustee routinely get confidential
5 information about other board member trustees and
6 their children?

7 A. No.

8 Q. This is the only instance?

9 A. I don't think I've ever gotten any
10 official information about any of the other board
11 members' children, no.

12 We do talk about our kid, we're all
13 proud of them.

14 MS. WALSH: I think that's all.

15 THE HEARING OFFICER: All right.

16 Mr. Shaw?

17 MR. SHAW: I have no cross, but
18 do have a question of the witness.

19 THE HEARING OFFICER: So no
20 cross.

21 So let the record reflect that
22 Ms. Walsh has concluded her direct
23 examination of Mr. Castricone.

24 Mr. Shaw has no cross-examination, and
25 Mr. Shaw's now making Mr. Castricone

1 Daniel Castricone - Rebuttal Direct

2 his witness for purposes of asking some
3 questions on direct.

4 (Daniel Castricone is called as
5 a rebuttal witness and remains sworn.)

6 REBUTTAL DIRECT EXAMINATION

7 BY MR. SHAW:

8 Q. Mr. Castricone, do you recall seeing
9 the testimony of Tony Olivo earlier today?

10 A. I did.

11 Q. And did you see him project on the
12 screen the email that is in evidence as
13 Exhibit Hearing Officer 1, addressed from Jeff
14 White to certain persons, as you might have
15 received it on your computer?

16 A. I did.

17 Q. I'm showing him the lead part of
18 IHO-1?

19 A. I'm sorry, Counselor, could I ask for
20 my glasses?

21 Q. Oh, sure.

22 So I'd like to ask you if that's how
23 you received the email addressed as indicated in
24 IHO-1?

25 A. I am certain that that is how it was

1 Daniel Castricone - Rebuttal Direct
2 addressed. I looked at it just a couple minutes
3 ago on the computer. I was able to go back to
4 August the 9th when it came in, and it was
5 addressed that way with a meeting request attached
6 to it.

7 Q. Showing the witness District
8 Exhibit 6, you're referring to a meeting request.
9 Is that exhibited on District Exhibit 6?

10 THE HEARING OFFICER: Mr. Shaw,
11 could I see?

12 MR. SHAW: Oh, I'm sorry.

13 THE HEARING OFFICER: What's the
14 question?

15 A. Below is the link for our meeting,
16 Thursday, August 12th, 5:30. Let me know which
17 board members will be in attendance, so yeah.

18 Q. So you did receive the remainder of
19 D-6 as indicated.

20 A. Yes.

21 Q. Yes.

22 A. Yes.

23 MR. SHAW: No further questions.

24 THE HEARING OFFICER: Do you
25 have any questions, Mrs. Walsh?

1 Proceedings

2 MS. WALSH: No, nothing.

3 THE HEARING OFFICER: No
4 questions. The witness is excused.

5 (Daniel Castricone is excused as
6 a witness and leaves the witness
7 stand.)

8 THE HEARING OFFICER: Counsel,
9 where do we go from here? Further
10 witnesses?

11 MS. WALSH: No further
12 witnesses.

13 THE HEARING OFFICER: All right.
14 Mr. Shaw, further witnesses?
15 So respondent rests?

16 MS. WALSH: Yes.

17 THE HEARING OFFICER: Rebuttal?

18 MR. SHAW: I would like to have
19 Mr. Rickard back as a witness.

20 THE HEARING OFFICER: Mr.
21 Rickard for rebuttal.

22 (Joseph Rickard is called as a
23 rebuttal witness and takes the stand.)

24 THE HEARING OFFICER: Mr.
25 Rickard, please understand that your

1 Joseph Rickard - Rebuttal Direct

2 testimony will still be under oath.

3 THE WITNESS: I understand.

4 THE HEARING OFFICER: Thank you.

5 (Continued on next page)

6 WHEREUPON,

7 JOSEPH RICKARD,

8 called as a rebuttal witness herein,

9 previously duly sworn:

10 REBUTTAL DIRECT EXAMINATION

11 BY MR. SHAW:

12 Q. Mr. Rickard, I'm showing you what is
13 in evidence as Hearing Officer No. 1 and that's an
14 email from Jeff White to others, and I'm asking
15 you if that's the heading you saw in an email from
16 Jeff White to you that would be on your computer
17 from August 9, 2021?

18 A. It's interesting on one computer, it
19 showed that way. But I had another computer
20 where -- on my cell phone it did not show that
21 way.

22 Q. On your computer it showed that way.

23 A. Yes, yes, on my home computer, but on
24 my cell phone it didn't.

25 Q. Thank you.

1 Joseph Rickard - Rebuttal Cross

2 THE HEARING OFFICER: Any
3 further questions?

4 MR. SHAW: No.

5 THE HEARING OFFICER: Any
6 questions from Ms. Walsh?

7 REBUTTAL CROSS-EXAMINATION

8 BY MS. WALSH:

9 Q. Mr. Rickard, did seeing the email
10 that Mr. Shaw showed you on your computer that
11 certain way, did that change any of you
12 conclusions about the prior testimony you gave
13 about the email and your conclusions you reached?

14 A. No, no it doesn't.

15 Q. And why not?

16 A. Well, because -- because -- I'm not
17 sure, I don't remember testifying what I saw on
18 the email, but everything else -- but everything I
19 said this morning would still hold true.

20 MS. WALSH: Okay, that's all.

21 THE HEARING OFFICER: All right.
22 Any further questions?

23 MR. SHAW: I'd like to ask
24 Dorothy Ziegelbauer some further.

25 THE HEARING OFFICER: Okay.

1 Dorothy Ziegelbauer - Rebuttal Direct

2 Thank you, Mr. Rickard. You're
3 excused.

4 (Joseph Rickard is excused as a
5 witness and leaves the witness stand.)

6 THE HEARING OFFICER: Ms.
7 Ziegelbauer, please take the witness
8 stand.

9 (Dorothy Ziegelbauer is called
10 as a rebuttal witness and takes the
11 witness stand.)

12 THE HEARING OFFICER Ms.
13 Ziegelbauer, you are still under oath,
14 okay? You understand that?

15 THE WITNESS: Yes.

16 THE HEARING OFFICER: Thank you.

17 WHEREUPON,

18 DOROTHY ZIEGELBAUER,
19 called as a rebuttal witness,
20 previously duly sworn:

21 REBUTTAL DIRECT EXAMINATION

22 BY MR. SHAW:

23 Q. When you responded to who you thought
24 was Jeff White and that it went to Ms. Broderick,
25 did you respond from your iPhone or from a

1 Proceedings

2 computer?

3 A. I do not recall.

4 MR. SHAW: No further questions.

5 THE HEARING OFFICER: Any

6 questions?

7 MS. WALSH: No.

8 THE HEARING OFFICER: All right,
9 you're excused, Ms. Ziegelbauer.

10 (Dorothy Ziegelbauer is excused
11 as a witness and leaves the stand.)

12 THE HEARING OFFICER: Any

13 further witnesses on rebuttal,

14 Mr. Shaw?

15 MR. SHAW: I just wanted to do a
16 bit of a headcount. In this hearing
17 we've had one, two, three, four board
18 members out of seven as witnesses, and
19 ordinarily witnesses cannot sit as
20 judges but there is a rule of necessity
21 where if you're down to less than a
22 quorum of the board not testifying,
23 then all members of the board may sit
24 as judges. And I believe we're at that
25 point right now.

1 Proceedings

2 I believe it was Joe, Dan,
3 Alyssa and Bill.

4 MRS. ZIEGELBAUER: And me.

5 THE HEARING OFFICER: And
6 Dorothy.

7 MR. SHAW: Well, Dorothy is the
8 respondent.

9 THE HEARING OFFICER: Right.
10 Dorothy doesn't count for these
11 purposes; she's the respondent.

12 MR. SHAW: So we would be down
13 to two board members as judges but for
14 the rule of necessity.

15 So at this point I'm just
16 suggesting that the board members
17 except for Ms. Ziegelbauer can sit as
18 judges in this matter.

19 THE HEARING OFFICER: All right.
20 And when do you want to conduct your
21 deliberations and how do you want to
22 proceed? Do you want to get the
23 transcript? Do you want to write
24 briefs? Do you want to set a
25 deliberations date? Do you want to

1 Proceedings

2 confer amongst yourselves?

3 I'm happy obviously as hearing
4 officer to be available for
5 consultation. That's up to you, the
6 board.

7 MS. WALSH: Can I just ask you,
8 I just want to object for the record
9 even though that we do -- that we had
10 asked Mr. Castricone to recuse from
11 this.

12 THE HEARING OFFICER: I
13 understand that, and I understand that
14 that's pending before the Commissioner.

15 MS. WALSH: I just wanted to
16 note the objection.

17 THE HEARING OFFICER: Okay.
18 Objection noted.

19 So we have six board members who
20 will deliberate. When did you want to
21 do it? How to you want to do it?

22 SPEAKER: Now.

23 THE HEARING OFFICER: Now?
24 That's one option.

25 Let's go off the record.

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Proceedings

(Discussion off record)

THE HEARING OFFICER: We'll go on the record. Let me frame the question. The issue is we have outstanding questions with regard to D-8, which is the Muenkel report. It's not in evidence. It's been considered confidential by the board and the use of it or whether it was distributed and handed back in accordance with request of the superintendent is an issue. So it's disclosure is a very delicate matter which should be honored by the way in which the counsel addresses the report in their written closing. The document's not in evidence.

I would like to hear from Ms. Walsh and Mr. Shaw on their opinions about its use going forward and then I'll make a ruling with respect to the closing statements.

Mr. Shaw, do you want to go first on this?

MR. SHAW: Sure. It's the

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Proceedings

District's position that D-8 should be considered within the context of the second charge alone for the purpose of determining if there was sensitive personal information, not only about the student, that would be Student PII, but also a about adults, staff members, board members, faculty that should remain confidential not subject to public disclosure in the proceedings, that this board and ultimately the commissioner may review D-8 in camera to determine whether or not the arguments made by respective parties have legitimacy about Charge 2.

THE HEARING OFFICER: Ms. Walsh?

MS. WALSH: As professionals, Mr. Shaw and I and I believe the board members deal with confidential documents, highly confidential document every day. We have duties to keep reports confidential and we understand and Ms. Ziegelbauer understands, everyone here understands the report is

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Proceedings

confidential and we're not going to be releasing it.

That said, and I do agree with Mr. Shaw, it is certainly relevant for in-camera review and it is relevant and could be relevant as long as it's done appropriately in the post hearing statements if there is nothing confidential quoted, and those briefs do not have to be filed. They're not going to be filed anywhere. They're going to be for the board's review. So they're confidential documents. We are not going to use any identifiable information on anybody. So I would -- I think it's certainly relevant. I do think it could be in evidence, however, it should be in evidence, heavily redacted, but understand your position and the issue here. So I think we can have a compromise and have it confidential information in the closing statements as well as for the report, if that makes sense.

1 Proceedings

2 MR. SHAW: Agreed that the
3 closing statements would be deemed
4 confidential the same way as
5 District 8.

6 THE HEARING OFFICER: All right.

7 Is that what you propose,
8 closing statements are confidential in
9 the same way that District 8 is
10 confidential. So it sounds like you're
11 suggesting that the board have another
12 in-camera inspection of the Muenkel
13 report.

14 MR. SHAW: Right, during --

15 THE HEARING OFFICER: So we'll
16 have to schedule that --

17 MR. GIVENS: Well, couldn't that
18 be during deliberations? Isn't that
19 automatically Executive Session?

20 THE HEARING OFFICER: Yes. All
21 right.

22 MR. GIVENS: We need a Special
23 Session for that right, Joe?

24 THE HEARING OFFICER: So we have
25 a timeframe so far. Transcript within

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Proceedings

two to three weeks, probably by
November 24, the day before
Thanksgiving. Counsel will be
providing written closing statements on
December 9. There is a board meeting
on December 15 and the board will
decide if that is the time when they
will conduct their deliberations.

With that, we can close the
hearing. I thank you all for your
professionalism and your patience, and
I wish you good luck with everything.

Have a nice evening.
(Time noted: 7:00 p.m.)

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CERTIFICATE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, KATHLEEN T. KEILTY, a
Certified Shorthand Reporter and Notary
Public within and for the State of New
York, do hereby certify:

I reported the proceedings in
the within-entitled matter, and that
the within transcript is a true record
of such proceedings;

I further certify that I am not
related, by blood or marriage, to any
of the parties in this matter and that
I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 22nd day of
November, 2021.

Kathleen T. Keilty

KATHLEEN T. KEILTY, CSR
License No. 755

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