

**IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

CAROL J. BELAS,	:	
Appellant,	:	
	:	
v.	:	TTA No. 02-04
	:	
JUNIATA COUNTY SCHOOL	:	
DISTRICT	:	
Appellee	:	

OPINION AND ORDER

Carol J. Belas (“Ms. Belas”) appeals to the Secretary of Education from the decision of the Juniata County School District (“District”) dismissing her from her position with the District as a professional employee.

FINDINGS OF FACT

1. Ms. Belas was hired by the District in August 2001 as a twelve-month employee on a probationary status as a first year principal. (N.T. 9/23/02, pp. 36, 42; District Exh. 2).

2. When she was hired, Ms. Belas was aware that she would have responsibility for three elementary school buildings. (N.T. 9/23/02, p. 94).

3. At a meeting of teacher building representatives in October 2001, the Superintendent, Thomas Muir (“Mr. Muir”) was told of a grievance that was going to be filed against Ms. Belas and that there may be more staff morale problems with regard to Ms. Belas. (N.T. 9/23/02, p. 44).

4. A grievance was filed against Ms. Belas regarding a telephone log and the restriction of copier use. The grievance was dropped when Ms. Belas stopped using the phone log. (N.T. 9/23/02, pp. 46, 48; District Exh. 3).

5. After the grievance, Mr. Muir heard more complaints about Ms. Belas during meetings with staff at the three elementary buildings at which Ms. Belas was principal. (N.T. 9/23/02, pp. 55-57).

6. After hearing concerns from staff about Ms. Belas, Mr. Muir looked into Mr. Belas’ job history at other Pennsylvania school districts. (N.T. 9/23/02, pp. 67, 72-73).

7. On Ms. Belas' resume, the West Shore and Hamburg School Districts were listed out of chronological sequence and did not include dates of employment. Mr. Muir learned that Ms. Belas had been asked to leave the West Shore School District and was given the choice of resigning or having termination proceedings commenced against her by the Hamburg School District. (N.T. 9/23/02, p. 73; N.T. 2/26/03, pp. 53, 58; N.T. 6/9/03, pp. 19-21; District Exh. 1).

8. Daniel Sheats was the Director of Pupil Services at the West Shore School District ("West Shore") during the 1998-1999 school year. (N.T. 2/26/03, p. 12).

9. Ms. Belas was hired by West Shore in December 1998 but resigned, effective June 30, 1999, after a verbal agreement that if she resigned West Shore would not begin termination proceedings against her and would not put an evaluation in her file. (N.T. 2/26/03, pp. 14, 27, 53, 58; District Exh. 119).

10. Belas began working for the Hamburg School District ("Hamburg") on August 4, 1997 and resigned, effective June 30, 1998. (N.T. 6/9/03, p. 13).

11. Hamburg hired Belas as the Director of Special Education but she was moved from that position after the first semester because of her difficulties and complaints from administrators, teachers, parents and a student. (N.T. 6/9/03, pp. 18, 20).

12. Hamburg's Superintendent, Charles Miller, gave Belas a choice to resign or he was going to start termination hearings against her. Belas chose to resign. (N.T. 6/9/03, pp. 19-21).

13. Mr. Muir met with Ms. Belas in a pre-evaluation conference on November 19, 2001, and heard her address the concerns that had been raised by staff. Mr. Muir told Ms. Belas not to lie and that the principals' meetings could provide her help and support. (N.T. 9/23/02, pp. 57-58).

14. During the November 19 meeting when Ms. Belas was asked about her work history she would not answer questions about why she left other jobs but asked if she was in trouble and why they wanted to know this information. (N.T. 3/21/03, pp. 51-53).

15. By letter dated November 29, 2001, Ms. Belas acknowledged that she heard Mr. Muir's suggestions for improvement at the November 19, 2001 meeting and intended to rectify his concerns. (N.T. 9/25/03, pp. 130-31; Belas Exh. 1).

16. Mr. Muir met with Ms. Belas on December 3, 2001 and provided her a three-month performance review, which identified problems with Ms. Belas' performance. (N.T. 9/23/02, p. 60; District Exh. 5).

17. At the December 3, 2001 performance review, Mr. Muir asked Ms. Belas about the school districts on her resume but she refused to respond and again refused to give reasons why she left the school districts. (N.T. 9/23/02, p. 74; N.T. 3/26/03, pp. 56-57).

18. Mr. Muir asked Ms. Belas to provide him a corrected copy of her resume but when she failed to do so, Mr. Muir provided Ms. Belas with a format to respond and specifically state the reasons she left school districts where she had been employed. (N.T. 9/23/02, pp. 74-75; District Exh. 6).

19. When Mr. Muir provided Ms. Belas with the format outlining her employment history and asked her to complete it, she placed a question mark in the column entitled "Reason to Leave" and stated she did not understand what this meant. (N.T. 9/23/02, pp.75-76; N.T. 10/7/03, pp. 45-48; District Exh. 6).

20. During the December 3 performance review, Mr. Muir told Ms. Belas to consider all her options, including resignation. (N.T. 10/30/02, p. 121).

21. Mr. Muir gave Ms. Belas her first evaluation on January 31, 2002 but she refused to sign that she received it until February 15, 2002. (N.T. 10/29/02, pp. 8-9; District Exh. 11).

22. On February 8, 2002, Mr. Muir gave Ms. Belas her first reprimand, which identified the continuing behaviors that had been addressed in the January 31 evaluation. (N.T. 10/29/02, p. 13; District Exh. 13).

23. Mr. Muir notified Ms. Belas on February 11, 2002 that there would be a hearing on February 14, 2002 to discuss the January 31 unsatisfactory evaluation and the February 8 reprimand. (N.T. 10/29/02, pp. 12-13; District Exh. 14).

24. On February 13, 2002, Mr. Muir provided Ms. Belas with an Improvement Plan because the behaviors identified in the January 31 evaluation and the February 8 reprimand were continuing and Mr. Muir believed Ms. Belas needed this as soon as possible. (N.T. 10/29/03, pp. 17-19; District Exh. 15).

25. The Improvement Plan described conduct to which Ms. Belas was to adhere and identified training programs Ms. Belas was to attend. (N.T. 10/29/02, pp. 18-22; District Exh. 15).

26. On March 1, 2002, Mr. Muir provided Ms. Belas with an addendum to the Improvement Plan that relieved Ms. Belas of her obligation to deliver cafeteria receipts to the bank for Susquehanna and required that she only attend one, one-day workshop on March 15, 2002. (N.T. 10/29/02, pp 24-26; District Exh. 17).

27. The hearing scheduled for February 14 was changed to February 15, lasted approximately one and one-half hours, and Ms. Belas received her second reprimand. (N.T. 10/29/02, pp. 16, 26-27; District Exhs. 18, 19).

28. During the February 15 meeting, Mr. Muir asked Ms. Belas about the dates on her resume and Ms. Belas stated that she was afraid to give permanent dates. (N.T. 5/12/03, p. 65).

29. The February 15 meeting was continued on February 22, lasted approximately three hours, and Ms. Belas was given her third reprimand. (N.T. 10/29/02, pp. 26-27, 35; District Exhs. 21, 22).

30. During the February 22 meeting, Ms. Belas was asked to sign two documents that she had signed previously but with the wrong dates and Ms. Belas refused. Ms. Belas asked no questions but talked about the attorneys bringing the matter to some sort of a resolution. (N.T. 10/29/02, p. 36; N.T. 3/26/03, pp. 57-58).

31. Ms. Belas had stated she made no personal calls from district telephones but when at the February 22 meeting she was told the District's phone log showed she had made three personal calls, she qualified her statement by saying she did not make many personal calls. Ms. Belas offered to pay the business manager for the extra minutes used on her cell phone. (N.T. 10/29/03, pp. 36-38; N.T. 3/26/03, p. 58; District Exh. 20).

32. After the February 22 meeting, Mr. Muir suspended Ms. Belas for three days (February 25-27) without pay because of the continuing misbehaviors based on the January 31 evaluation and the reprimands of February 8, 15 & 22, and Ms. Belas' lack of information or communication to defend herself. (N.T. 10/29/02, p. 45; 3/26/03, pp. 58-59; 9/30/03, pp. 131-32; District Exh. 23).

33. Ms. Belas asked Mr. Muir whether, during her suspension, she still had to attend the Penn State classes that were part of the Improvement Plan and Mr. Muir advised her that she did. However, Ms. Belas stated that her attorney told her she did not have an obligation to attend those classes and she advised Mr. Muir when she returned from her suspension that she had not attended the February 26 class. (N.T. 10/29/02, p. 47-48).

34. When Ms. Belas provided Mr. Muir with a summary of the Penn State classes, it included informal notes for the February 26 class and Ms. Belas said she attended the class. (N.T. 10/29/02, p. 78-79; District Exh. 33).

35. On March 1, 2002, Ms. Belas received a fourth reprimand regarding events that had occurred prior to her suspension. Mr. Muir met with Ms. Belas about the reprimand and she either failed to remember the events Mr. Muir raised in the reprimand or said nothing about them. (N.T. 10/29/02, pp. 67-76; District Exh. 32).

36. Mr. Muir gave Ms. Belas a fifth reprimand on March 7, 2002. (N.T. 10/29/02, p. 80; District Exh. 34).

37. A second grievance, dated April 11, 2002, was filed against Ms. Belas for interfering with teachers' attempts to provide educational services to students. (N.T. 10/29/02, p. 94; District Exh. 39).

38. Ms. Belas responded to the second grievance stating that it did not provide specificity and she wanted to meet with the grievant. (N.T. 10/29/02, pp. 96-97; District Exh. 40).

39. Mr. Muir held a meeting with Ms. Belas and the grievant, Mr. Wayne Chrismer, on May 2, 2002. Mr. Chrismer stated that teachers complained: (1) about Ms. Belas' leadership and not being able to locate her; (2) about problems with obtaining substitutes because the numbers Ms. Belas gave them to contact her were not consistent; (3) that there was no consistency in directions to staff; (4) that she took planning time from teachers; and, (5) she lied about not restricting copier use. (N.T. 10/29/02, pp. 97-102; District Exh. 41).

40. As directed by Mr. Muir, Ms. Belas provided him a written response to matters raised by Mr. Chrismer regarding the second grievance. (N.T. 10/29/02, pp. 102-03; District Exh. 42).

41. Mr. Muir denied the second grievance on the basis it was not a situation that could be grieved but gave Ms. Belas directions for improvement. (N.T. 10/9/02, pp. 104-05; District Exhibits 43, 44).

42. On May 2, 2002, Mr. Muir gave Ms. Belas an unsatisfactory rating (form PDE 5501) for the first semester that was to accompany the January 31 unsatisfactory evaluation. (N.T. 10/29/02, pp. 108-09; District Exhs. 48, 49).

43. Ms. Belas signed a copy of the unsatisfactory rating form but refused to sign the original. Ms. Belas noted on the unsatisfactory rating form that she was not given an opportunity to discuss it with the rater, but in a memo from Ms. Belas to Mr. Muir she stated she saw no need to discuss it with him because of his inconsistent treatment of her and that any discussion would have been an exercise in futility. (N.T. 10/29/02, pp. 111-12; 114; District Exhs. 49, 50).

44. Mr. Muir gave Ms. Belas a sixth reprimand on May 16, 2002 and a seventh reprimand on May 23, 2002. (N.T. 10/30/02, pp. 17, 23; District Exhs. 54, 57).

45. Mr. Muir observed Ms. Belas on May 22, 2002, and prepared an unsatisfactory evaluation and rating form, which he gave her on June 7, 2002. (N.T. 10/30/02, pp. 48-49, 52-56; Exhs. 59, 60).

46. On June 7, 2002, Mr. Muir informed Ms. Belas that charges would be presented against her at the June 17 Board of Directors' meeting. Mr. Muir hand delivered a copy of the Notice of Charges to Ms. Belas on June 17, 2002 and on June 18 sent a certified copy to the Bellefonte address Ms. Belas had given him. (N.T. 10/30/02, pp. 51, 62, 64-65; District Exh. 63).

47. Mr. Muir met with Ms. Belas on June 25, 2002 to consider her employment status and pay pending the discharge hearing. During the June 25 meeting, Mr. Muir suspended Ms. Belas without pay effective June 26. (N.T. 10/30/02, pp. 69-78; District Exhs. 65, 66).

48. Lori Lauver ("Ms. Lauver") was the secretary at the Monroe Elementary School for four years including the 2001-2002 school year. (N.T. 1/8/03, p. 88-89).

49. Within the first few weeks of the beginning of the 2001-2002 school year, Ms. Belas had a faculty meeting with the Monroe staff and stated that Ms. Lauver was having a problem with not being able to use the copy machine when necessary, which was not true. (N.T. 1/8/03, pp. 91-93).

50. Early in the 2001-2002 school year, Ms. Lauver learned Ms. Belas did not like to call substitutes, the call lists she gave to staff were confusing and there were instances when two substitutes were called for one absent teacher. (N.T. 1/8/03, pp. 94-96.).

51. Ms. Belas gave teachers three phone numbers to contact her if substitute teachers were needed – one was her cell phone, one was her home phone, and one was her mother’s home because she would sometimes go there on weekends. (N.T. 9/25/03, p. 55).

52. In early June, Ms. Belas called Ms. Lauver to say she was in a car accident and she needed the phone number of the Susquehanna Township police. Ms. Lauver told her there were no township police and she needed to call the Pennsylvania State Police. Approximately five minutes later, Ms. Belas called back and asked again for the phone number of the Susquehanna Township police. (N.T. 1/8/03, pp. 110-11).

53. On January 30, 2002 when Ms. Lauver was looking for a paper on Ms. Belas’ desk, she found an envelope that had a permission to evaluate form in it dated October 15, 2001 that a parent had sent in for her child to be evaluated for learning support. (N.T. 1/8/03, pp. 119-20).

54. When Ms. Lauver was absent in January 2002 due to her son’s hospitalization, Ms. Belas repeatedly asked how Ms. Lauver was accounting for her time off, and one day she said Mr. Muir needed the information. Ms. Lauver spoke to Mr. Muir who said he had not asked Ms. Belas for that information. (N.T. 1/8/03, pp 121-22).

55. Ms. Belas was not around the students or the teachers at Monroe because she would go into her office and close the doors. Even toward the end of the school year when Ms. Lauver would mention a teacher, Ms. Belas would not know what building the teacher was in, and Ms. Belas did not know the custodian’s name at Monroe. (N.T. 1/8/03, p. 137).

56. Deb Snyder (“Ms. Snyder”), lunch monitor at Monroe and part-time secretary, felt threatened by Ms. Belas because Ms. Belas said if anyone went against her she would get revenge. (N.T. 1/9/03, pp. 90, 96-97).

57. One day when Ms. Snyder was having difficulty in the lunchroom, she asked Ms. Belas to help her with the class because they were not listening and cleaning up. Ms. Belas did not help Ms. Snyder but questioned what it was she was to do and then walked out of the lunchroom. (N.T. 1/9/03, p. 98).

58. Linda Delbaugh (“Ms. Delbaugh”) provided office support at the Susquehanna Elementary School for three years, including the school year of 2001-2002. (N.T. 1/13/03, p. 4).

59. Although school started on August 29, 2001, Ms. Belas went to the Susquehanna Elementary School for the first time on September 6, 2001. (N.T. 1/13/03, p.7).

60. Ms. Belas told Ms. Delbaugh that if anyone ever spread untrue things about her she would get even, and this scared Ms. Delbaugh. (N.T. 1/13/03, pp. 9-10).

61. On February 13, 2002, Ms. Belas was taking Individualized Educational Program (“IEP”) files out of the drawer, making copies and asking for files of students who did not attend Susquehanna. Ms. Belas received a phone call from Polly in the District Office and later left Susquehanna and left IEP files out on the table in the office. (N.T. 1/13/03, pp. 17-18).

62. Katrina Milliken (“Ms. Milliken”) was the secretary at the Thompsontown Elementary School for three years, including the 2001-2002 school year. (N.T. 1/13/03, pp. 72-73).

63. When Ms. Belas was at Thompsontown, she was on the telephone a lot in the office with the door shut. (N.T. 1/13/03, pp. 74-75).

64. A student at Thompsontown chipped her tooth and Ms. Belas took care of the student and called her mother to tell her of the incident. The student’s mother brought an insurance paper for Ms. Belas to sign, but Ms. Belas refused to sign it and argued that the accident did not happen in school and later said she did not remember the event. However, it was listed on the health room log sheet that Ms. Belas had taken care of the student. The mother finally had the nurse sign the insurance form almost two weeks later. (N.T. 1/13/03, pp. 80-81; 4/9/03, pp. 24-27, 31-32).

65. When a fifth grade student from Thompsontown was killed on January 25, Ms. Belas never showed up at Thompsontown until 12:30 or 1:00 even though the school was put into “lock down” by 8:30 or 9:00 a.m. (N.T. 1/13/03, p. 84).

66. Ms. Belas made a fuss about teachers going to the student’s funeral because she needed to get substitutes but the Intermediate Unit was already providing substitutes. Ms. Belas also did not want to let Ms. Milliken attend the funeral because Ms. Belas said there would be nobody at the school who would know how to run things. (N.T. 1/13/03, pp. 85-86).

67. Ms. Belas was taken out of Thompsontown for a few days after the student’s funeral because she was upsetting everyone. (N.T. 1/13/03, p. 86).

68. Ms. Belas did not know the Thompsontown students and had no interaction with them except those who were in trouble, and she did not know some of the staff. (N.T. 1/13/03, p. 92).

69. Barbara Bassler (“Ms. Bassler”) was a teacher for twenty-eight years at the Thompsontown Elementary School, including the school year of 2001-2002. (N.T. 1/15/03, p. 15).

70. One Sunday, Ms. Bassler had difficulty reaching Ms. Belas to request a substitute for Monday, and there were times when there were two substitutes for one room, or rooms without substitutes. (N.T. 1/15/03, pp. 21-24).

71. Ms. Belas had trouble remembering the names of students, parents, and teachers and knowing classrooms. Ms. Belas would go into the office, close the door and stay there and she did not interact a lot with the teachers and students. (N.T. 1/15/03, pp. 39- 40).

72. Annette Haines (“Ms. Haines”) was a teacher at Thompsontown for 15 years, including the 2001-2002 school year. (N.T. 1/22/03, pp. 7-8).

73. Ms. Belas would frequently interrupt Ms. Haines’ instructional time by coming into her classroom and speaking to Ms. Haines rather than waiting in the doorway for her. (N.T. 1/22/03, pp. 21-22).

74. In mid-October 2001, Ms. Belas arrived approximately 20 minutes late for an IEP meeting and proceeded to work in notebooks that appeared unrelated to the meeting. The student had problems accepting responsibility for his actions and Ms. Belas asked “doesn’t he have a brother he can blame things on?” The student’s brother had been killed, which was the reason the student was in learning support, but Ms. Belas never apologized for her remark. (N.T. 1/22/03, pp. 22-24).

75. In January 2002, Ms. Haines attempted to call Ms. Belas to get a substitute. Ms. Haines called the number Ms. Belas had indicated was the best number to reach her but she did not get an answer and was told the number was no longer available. (N.T. 1/22/03, p. 26).

76. Ms. Belas spent a great deal of time on the telephone at Thompsontown and very seldom spoke to the students. (N.T. 1/22/03, p. 28).

77. When a Thompsontown student was killed in January 2002, Ms. Belas did not show compassion to the Thompsontown teachers or to the family. (N.T. 1/22/03, p. 33, 36).

78. Judy Taylor (“Ms. Taylor”) was employed by the District for almost 17 years as a Title I teacher, which included working during the 2001-2002 school year at Thompsontown. (N.T. 1/22/03, p. 90).

79. On September 7, 2001, Ms. Belas interrupted Ms. Taylor’s instructional time with her class and required Ms. Taylor to complete a testing survey that was not applicable to Ms. Taylor, who was not a regular classroom teacher. (N.T. 1/22/03, p. 92).

80. When Ms. Taylor went to Ms. Belas with a question or something she needed help on, Ms. Belas would not give her an answer but would talk about anything unrelated to the job. (N.T. 1/22/03, p. 104).

81. For Ms. Taylor, working with Ms. Belas was stressful and Ms. Taylor did not feel Ms. Belas exhibited the leadership Ms. Taylor expected of a principal. (N.T. 1/22/03, p. 102).

82. Kris Yetter (“Ms. Yetter”) was the parent of two students at Thompsontown and was a long-term substitute teacher at Thompsontown from November 2001 to the end of the school year. (N.T. 1/23/03, pp. 106-08).

83. Ms. Belas did not know students’ names and Ms. Yetter had to introduce her children to Ms. Belas in December even though she had already done so in September. (N.T. 1/23/03, pp. 109-10, 117-18).

84. Dr. Elise Hazel (“Dr. Hazel”), Director of Support Services, was scheduled to read a test to a student on May 6 but Ms. Belas put her name on the list and read to the student instead. After talking to the student, Ms. Yetter concluded that his IEP had not been fulfilled because the test had not been properly administered. (N.T. 1/23/03, pp. 124-25, 127-29).

85. When a student was killed on January 25, Ms. Belas did not come to Thompsontown until 1:00 and she had no compassion for the teachers but was mostly concerned about how she was going to get enough substitutes for the day of the service. (N.T. 1/23/03, pp. 115-17).

86. Ms. Belas suggested that Ms. Yetter contact parents prior to an IEP meeting to go over details of the meeting so the meetings could be shorter in length. (N.T. 1/23/03, p. 121).

87. Ms. Yetter told Ms. Belas that a parent had a list of people she wanted invited to her child’s IEP meeting. Ms. Belas wanted to send blank forms to the parent so the parent could give them to whom she wanted to invite rather than have the school send the invitations. (N.T. 2/12/03, pp. 22-23).

88. During an IEP meeting in December 2001, Ms. Belas asked if the District used six-week or nine-week marking periods. (N.T. 2/12/03, p.36).

89. Dawn Sheaffer (“Ms. Sheaffer”), a parent of a child at Thompsontown and the lunch monitor during the 2001-2002 school year, never saw Ms. Belas talk to students in the lunchroom. (N.T. 2/12/03, pp. 108, 111).

90. When Ms. Belas walked through the cafeteria at lunchtime she did not speak to any of the children or to Ms. Sheaffer and at the spelling bee in January 2002, when Ms. Belas was introducing the judges, she did not know Ms. Sheaffer’s name. (N.T. 2/12/03, p. 111).

91. Sharon Flowers (“Ms. Flowers”) was the head cook at Susquehanna Elementary School for seven years, including the 2001-2002 school year. (N.T. 2/12/03, p. 113).

92. After Ms. Flowers explained to Ms. Belas that it was Ms. Belas’ responsibility to deposit the lunch money at the bank, Ms. Belas said she would not do it and that Flowers had to make the deposits and keep a record of the deposits for Belas. (N.T. 2/12/03, pp. 114-15).

93. Ms. Flowers asked Ms. Belas for the bank's night deposit key but Ms. Belas never gave it to her so Ms. Flowers finally got one from the bank. (N.T. 2/12/03, pp. 118, 128-29).

94. Sheree Brogan ("Ms. Brogan") was a teacher in the District for eighteen years, including a first grade teacher at Susquehanna during the 2001-2002 school year. (2/12/03, N.T., pp. 135-36).

95. Ms. Belas did not come to Susquehanna until a week after school opened and did not introduce herself to the students. (N.T. 2/12/03, p. 137).

96. By October 2, 2001, Ms. Belas did not know the names of the four teachers at Susquehanna and was one-half hour late to a home and school meeting. (N.T. 2/12/03, p. 138).

97. On October 4, 2001, Ms. Belas was at Susquehanna and when teachers asked about their paychecks, Ms. Belas stated that she mailed them because she did not think she could get to Susquehanna every two weeks on payday. Ms. Belas had not told the teachers their checks would be mailed prior to doing so. It had always been a practice of the principals to personally deliver the paychecks and make personal contact with the employees. (N.T. 2/25/03, pp. 17, 28, 31, 81).

98. Ms. Belas decided from a time management perspective and prioritizing that she would not deliver paychecks to the four teachers at Susquehanna as had been done in the past by the principal. (N.T. 9/25/03, p. 99).

99. Ms. Belas did not discuss the delivery of paychecks with Mr. Muir before she decided to mail them to the teachers and he did not authorize the mailing of the paychecks without telling the teachers. (N.T. 10/22/03, pp. 115-16).

100. Ms. Belas had a hard time focusing on what teachers told her, would ask the same questions and had to be told things over and over again. (N.T. 2/12/03, p. 143).

101. Ms. Belas interrupted Ms. Brogan's instructional time one day stating she had something important to talk to Ms. Brogan about. Ms. Belas then told Ms. Brogan she had been shopping and found color that would color up the "ashiness" in Ms. Brogan's hair. (N.T. 2/25/03, pp. 14-15).

102. Bonnie Flurie ("Ms. Flurie") was a teacher in the District for thirty years, including as a second grade teacher at Susquehanna during the 2001-2002 school year. (N.T. 2/25/03, p. 65).

103. On September 27, 2001, Ms. Flurie called Ms. Belas for a substitute teacher and Ms. Flurie had to tell Ms. Belas who she was and where she taught at least four or five times. (N.T. 2/25/03, pp. 69-70).

104. When Ms. Flurie and other teachers tried to get answers from Ms. Belas, she would skirt around the issue, turn the conversation to a different topic and never answer the question. (N.T. 2/25/03, p. 74).

105. During an IEP meeting that Ms. Flurie attended, and during a classroom observation of Ms. Flurie, Ms. Belas suddenly started ripping papers and tossing them on the floor, which was distracting. (N.T. 2/25/03, p. 76).

106. One day Ms. Flurie noticed documents lying on the desk in the office area and was told that Ms. Belas had left them there. When Ms. Flurie saw they were IEPs laying out, she took pictures of the documents and then she and Ms. Delbaugh put them in a locked drawer. (N.T. 2/25/03, pp. 86-92).

107. Lynnette Kennel (“Ms. Kennel”) was the elementary school guidance counselor for the District during the 2001-2002 school year. (N.T. 2/27/03, p. 6).

108. No principals in the District, other than Ms. Belas, asked Ms. Kennel to deal with discipline and behavior problems in their respective elementary schools. (N.T. 2/27/03, pp. 9, 26-28, 30-36, 41-42).

109. On January 25, 2002, when Ms. Kennel learned a student who attended Thompsontown had been killed she went to Thompsontown at 10:30. When she arrived, teachers wondered why Ms. Belas, who arrived at approximately 1:00, was not there. (N.T. 2/27/03, pp. 12-14).

110. Ms. Belas was concerned with writing a newsletter about the incident and having something to send home to parents and told Ms. Kennel that Ms. Kennel could do the “feeling stuff” because she was not very good with that part. (N.T. 2/27/03, pp. 16, 19).

111. On Monday, January 28, teachers spoke to students about the tragedy, allowed questions and answers, provided banners for students to write on and Ms. Kennel made herself available for students to talk to. No student went to talk to Ms. Belas and Ms. Kennel does not remember Ms. Belas interacting with teachers. (N.T. 2/27/03, pp. 17-18).

112. On January 28, Ms. Kennel asked Mr. Muir to remove Ms. Belas from Thompsontown because teachers were stressed and upset and felt it was necessary for Ms. Belas to be removed. (N.T. 2/27/03, p. 21).

113. Renee Elsasser (“Ms. Elsasser”) taught kindergarten at Monroe in the 2001-2002 school year. (N.T. 2/27/03, p. 102).

114. Ms. Belas did not know Ms. Elsasser’s students and the students did not know Ms. Belas was the principal because she did not come into Ms. Elsasser’s room very often. (N.T. 2/27/03, p. 112).

115. Ms. Belas stated at a faculty meeting in November that she did not know she needed to get substitutes. (N.T. 2/27/03, p. 125).

116. Laura Wyglinski (“Ms. Wyglinski”) was a school psychologist at the District during the 2001-2002 school year. (N.T. 3/11/03, p. 28).

117. The school principal was to put information on Permission to Evaluate forms, forward them to Dr. Hazel’s office and then to Ms. Wyglinski. This process with Ms. Belas was very difficult and the Permission to Evaluate forms from Ms. Belas were consistently incomplete or completed incorrectly. (N.T. 3/11/03, pp. 35-38).

118. After an IEP meeting, Ms. Belas stated that she would take an IEP home, tweak it, and return it to the building and the parents the next day. However, teachers told Ms. Belas this was illegal. (N.T. 3/11/03, p. 49).

119. Prior to a February 7, 2002 IEP meeting, Ms. Belas stated that she needed to talk to Ms. Wyglinski about a student Ms. Belas believed needed additional testing. Ms. Wyglinski told Ms. Belas to send her copies of documents so she could review them and then she would get back to Ms. Belas. Notwithstanding this request, Ms. Belas tried on two more occasions to discuss this matter with Ms. Wyglinski without providing her copies of the documents she had requested. (N.T. 3/11/03, pp. 55-57).

120. On February 8, 2002, Ms. Belas tried to talk to Ms. Wyglinski at her office about the student referenced above. Ms. Wyglinski had her door closed because she was dealing with a crisis at another school and even though Ms. Belas was told this was a crisis call, she knocked on the closed door three different times causing Ms. Wyglinski to go to the other school to deal with the crisis. (N.T. 3/11/03, pp. 57-58).

121. Ms. Belas asked Ms. Wyglinski to set up meetings to discuss student evaluation results even when Ms. Wyglinski did not yet have permission to conduct the evaluations. (N.T. 3/11/03, p. 63).

122. Ann Shambaugh (“Ms. Shambaugh”) was an Instructional Support Teacher (“IST”) at the District during the 2001-2002 school year and familiarized Ms. Belas with the program. (N.T. 3/12/03, pp. 24-25).

123. Ms. Belas was not prepared for the IST meetings, usually had confidential files with her at the IST meetings and, because she was working on other paperwork, would ask questions that had already been answered. (N.T. 3/12/03, p. 28).

124. Ms. Belas asked Ms. Shambaugh how to fill out a Notice of Recommended Educational Placement (“NOREP”) and asked her to help write an IEP for a student who Ms. Shambaugh never met. Ms. Belas was writing it before the IEP meeting. (N.T. 3/12/03, p. 32).

125. Ms. Shambaugh tried to avoid Ms. Belas because Ms. Belas made everything more difficult and would ask about the same things over and over again. (N.T. 3/12/03, pp. 33, 35).

126. Ms. Belas did not know the name of the spelling bee judge, Dawn Sheaffer, who was a monitor at Thompsonstown every day, and Ms. Shambaugh never saw Ms. Belas interact with children. (N.T. 3/12/03, pp. 35-36).

127. Cheri Peck (“Ms. Peck”) was the Home and School Association President for Thompsonstown during the 2001-2002 school year, and had three children attending Thompsonstown. (N.T. 3/12/03, p. 102).

128. Ms. Peck left at least three messages for Ms. Belas to call her so they could set up dates for special activities provided by the Home and School Association. Ms. Belas did not return her calls so the Association set up dates and gave them to Ms. Belas. (N.T. 3/12/03, p. 103).

129. The first field trip of the year for Thompsonstown students was almost not approved because Ms. Belas had not put it on the Board’s agenda so Mr. Muir took care of it. (N.T. 3/12/03, p. 104).

130. Ms. Peck’s children did not know who their principal was for a long time because Ms. Belas did not introduce herself to the students. (N.T. 3/12/03, p. 108).

131. Jim Bahorick (“Mr. Bahorick”) has been the Assistant Business Manager at the District since 1993. (N.T. 3/26/003, p. 4).

132. During approximately the first week of school, Ms. Flowers called Mr. Bahorick because Ms. Belas had told the cook to do the cafeteria fund deposits and she needed a night deposit key and could not get it from Ms. Belas. (N.T. 3/26/03, p. 12).

133. Mr. Bahorick called Ms. Belas about the night deposit key and she said she would take care of it but by January she had still not provided Ms. Flowers with the key. (N.T. 3/26/03, p. 13).

134. At the principals’ meeting in October or November 2001, Ms. Belas was given a specific schedule to deal with supply orders. Mr. Bahorick worked with Ms. Belas on supply orders but when it did not look like she would get the orders done by January, Mr. Bahorick worked with the secretaries in Ms. Belas’ buildings to do the orders. (N.T. 3/26/03, pp. 16, 20).

135. Mary Harris (“Dr. Harris”) was the Assistant to the Superintendent during the 2001-2002 school year and was Ms. Belas’ supervisor. (N.T. 3/26/03, pp. 31, 34).

136. Dr. Harris saw Ms. Belas in the District Office so frequently in the first few weeks of school she wondered why Ms. Belas was not at her buildings where she was the principal. (N.T. 3/26/03, p. 35).

137. In 1999, Dr. Harris prepared a notebook with special education forms and a flow chart to aid principals. It was not prepared under current rules so at a training session on August 27, 2001, principals were given new forms and formats from the State. (N.T. 4/3/03, pp. 26-28; District Exh. 144).

138. On or about September 25, 2001, Dr. Harris met with Ms. Belas, Dr. Hazel and Mr. Stroup regarding special education forms and processes and Ms. Belas was told the forms in the notebook were out of date and to use the ones given to her in August 2001. (N.T. 3/26/03, p. 36; 4/3/03, p. 28).

139. Dr. Harris observed Ms. Belas April 24, 2002 in a gifted IEP meeting and Dr. Harris had to suggest bringing the student in because the meeting was not being held in the most efficient or correct manner. Dr. Harris had to raise the fact there would be no IEP from April 24 to the end of the year, and she had to correct the teacher's statement that she did not do annual goals for gifted students. (N.T. 3/26/03, pp. 39-41; District Exh. 145).

140. Dr. Harris tried to help Ms. Belas and would answer her questions but Ms. Belas would then ask the same question again and seemed to either have forgotten the answer or did not understand it. (N.T. 3/26/03, p. 50).

141. Vera Thomas ("Ms. Thomas") was an elementary teacher at Thompsontown during the 2001-2002 school year. (N.T. 3/28/03, p. 16).

142. Ms. Belas missed the first two support team meetings of the IST team even though the time had been changed from 8:00 a.m. to 12:00 p.m. to accommodate Ms. Belas – one time Ms. Belas was lost and another time she simply did not come to the meeting. (N.T. 3/28/03, pp. 27-28).

143. At an IEP meeting in December 2001, Ms. Thomas saw Ms. Belas with phone logs and she was writing things rather than dealing with issues about the student. (N.T. 3/28/03, p. 30).

144. Ms. Belas said she thought the previous principal had misplaced the Pennsylvania System of Statewide Assessment ("PSSA") results, but Dr. Hazel had handed them out in September and they were eventually found on Ms. Belas' desk. (N.T. 3/28/03, pp. 38-39).

145. Ms. Belas did not know most of the students, did not interact with them and spent hours on the phone with her door closed. Ms. Thomas did not feel she could get a resolution to a problem with Ms. Belas. (N.T. 3/28/03, pp. 60-61).

146. Patricia Becker ("Ms. Becker") was a substitute registered nurse at Thompsontown beginning in the middle of February 2002. (N.T. 3/28/03, p. 143).

147. When Ms. Becker was at Thompsontown one morning per week, she noted that Ms. Belas was in her office approximately 85% of the time with the door shut. (N.T. 3/28/03, p. 145).

148. Ms. Belas was very disorganized. She gave Ms. Becker copies of documents for the nurse's file and Ms. Becker made copies of the documents for Ms. Belas. The next week, Ms. Belas asked Ms. Becker for copies of the same documents. (N.T. 3/28/03, p. 147).

149. Ms. Becker gave Ms. Belas papers concerning the sixth grade field trip and talked to her about it but Ms. Belas never put the field trip on the Board's agenda for approval. Ms. Becker called Mr. Muir who put it on the agenda. (N.T. 3/28/03, p. 155).

150. Before Ms. Becker spoke to Mr. Muir about the field trip not being on the agenda, Ms. Belas told the teacher and students that the trip was cancelled even though that was never the intention of the Home and School Association. (N.T. 3/28/03, pp. 156-57).

151. Myra Reichart ("Ms. Reichart") is a communications organizing specialist for the Pennsylvania State Education Association ("PSEA") and the team leader of PSEA's Crisis Response Team. (N.T. 3/28/03, p. 177).

152. On January 28, 2002, at the request of the District and PSEA, Ms. Reichart and her Crisis Response team went to Thompsontown to begin providing support and intervention services because of the January 25 death of a student. (N.T. 3/28/03, p. 179).

153. Ms. Reichart met with Ms. Belas and explained their services and that they needed a private place to talk to people. Ms. Belas gave them the principal's office for privacy but Ms. Belas came in a lot and, at one point, Ms. Reichart had to ask Ms. Belas to leave. (N.T. 3/28/03, p. 183).

154. Ms. Reichart noticed the tension between the staff and Ms. Belas and was struck by Ms. Belas' seeming lack of sympathy or feeling toward what was happening emotionally with the staff. (N.T. 3/28/03, p. 184).

155. Ms. Belas was very resistant to, or at least put off complying with, Ms. Reichart's request for one or two floater substitutes so teachers could leave their rooms to compose themselves when necessary. (N.T. 3/28/03, p. 185).

156. During the crisis, Ms. Belas was more concerned with her needs and monopolized the crisis team's time with inconsequential talk, such as needing to make a hair appointment, asking what they thought of her hair color, and talking about shopping. (N.T. 3/28/03, p. 187).

157. Ms. Reichart spoke privately to Mr. Muir at the end of the day and suggested he remove Ms. Belas from Thompsontown at least for the duration of the crisis. (N.T. 3/28/03, p. 190).

158. Carrie Buffone Trout (“Ms. Trout”) was a speech/language clinician at the District during the 2001-2002 school year. (N.T. 3/28/03, pp. 4-5).

159. In February 2002, Ms. Belas called Ms. Trout to ask her how they handled Extended School Year (ESY”) in IEP meetings, which was odd because they had had meetings where this had been discussed. Ms. Trout explained it to Ms. Belas and then the next day Ms. Belas called with the same question. (N.T. 4/2/03, pp. 16-17).

160. Sometimes when Ms. Belas was at IEP meetings she was not involved in the meetings but was shuffling papers, doing her own thing, making little eye contact. Other times Ms. Belas was involved in the meetings but said things off the subject. (N.T. 4/2/03, p. 18).

161. Ms. Trout did not go to Ms. Belas for help because she did not feel comfortable going to Ms. Belas and did not feel she would help. (N.T. 4/2/03, p. 130).

162. Ms. Belas told Ms. Trout that she had to call Ms. Belas when she was sick and also call each building that she was to be working in that day. Mr. Muir told Ms. Trout this was not true and she only had to call the principal in the building where she was to start her day. (N.T. 4/2/03, pp. 94-95, 113).

163. Dr. Hazel was Director of Support Services at the District during the 2001-2002 school year and supervised the District’s principals for elementary and junior high school special education. (N.T. 4/9/03, pp. 66, 74).

164. On August 27, 2001, Dr. Hazel conducted training for elementary and secondary special education teachers and principals, sharing new regulations, State forms and formats. (N.T. 4/9/03, pp. 70-71; District Exh. 164).

165. Dr. Hazel met Ms. Belas at the August 27 in-service program and proposed meeting with Ms. Belas to go through special education procedures. Ms. Belas said she did not need anyone telling her what to do because she had her own entry plan. (N.T. 4/9/03, pp. 75-76).

166. Dr. Hazel left information for Ms. Belas about schedules and materials she would need and provided additional support to Ms. Belas. (N.T. 4/9/03, pp. 77-78).

167. When Dr. Hazel asked Ms. Belas how many years of special education supervisory experience she had, Ms. Belas did not respond. (N.T. 4/9/03, p. 80).

168. Dr. Hazel and Dr. Harris met with Ms. Belas on September 25, and using a binder Dr. Harris had previously created, reviewed the District’s special education process. Ms. Belas was told that the binder needed to be revised with the new forms that had been given to principals at the August 27 in-service because older forms were in the binder, but the procedures were correct. (N.T. 4/9/03, pp. 81-82, 86, 93).

169. File reviews are to make sure all forms are completed and accurate so the District is in compliance with special education laws and regulations and that students are receiving appropriate services. When Dr. Hazel went through a file review with Ms. Belas, Ms. Belas showed great difficulty working with the file review and had trouble with the forms she had been given in August. (N.T. 4/9/03, pp. 108-110).

170. On February 14, 2002, Dr. Hazel met with Ms. Belas again and went through the procedures for Permission to Evaluate and Reevaluate because Ms. Belas was showing difficulty in accurately completing the forms. (N.T. 4/9/03, pp. 116-17).

171. Dr. Hazel attended IEP meetings for students in Ms. Belas' buildings on October 22, 23, 25 and 30 because Ms. Belas shared with Dr. Hazel that she would not attend 8:00 a.m. IEP meetings. (N.T. 4/9/03, pp. 121-22).

172. Dr. Hazel observed Ms. Belas at an IEP meeting and Ms. Belas was good at sharing procedural safeguards with parents but her voice dropped off when answering questions about PSSA testing and ESY. The speech clinician had to remind Ms. Belas that a regular education teacher needed to be present and Ms. Belas then brought in three regular education teachers. During the meeting, Ms. Belas was writing the NOREP when the speech clinician was conducting the IEP meeting. (N.T. 5/12/03, pp. 56-67).

173. Ms. Belas stated to Dr. Hazel that she was the principal and did not have to follow the Special Education Plan. (N.T. 5/12/03, p. 113).

174. During a social setting, Ms. Belas stated to Dr. Hazel that nothing Ms. Belas said in that setting could be presented in a court of law and then told Dr. Hazel that if she ever said anything against Ms. Belas that she would make Dr. Hazel pay. (N.T. 5/12/03, p. 97).

175. On June 17, 2002, the School Board adopted a resolution charging Ms. Belas with immorality, incompetency, unsatisfactory performance based on two (2) consecutive ratings of your performance that includes observations, not less than four months apart, in which your performance is rated as unsatisfactory, intemperance, cruelty, persistent negligence in the performance of duties, willful neglect of duties, and persistent and willful violation of or failure to comply with the school laws of the Commonwealth of Pennsylvania (including official directives and established policy of the board of directors).

176. Hearings were held between September 23, 2002 through October 22, 2003, with counsel providing closing arguments on November 12, 2003.

177. On November 24, 2003, the School Board voted to accept five of the charges against Ms. Belas and thus terminated her employment with the District. (Exhibit 1 of Appellee's Brief).

178. On December 22, 2003, Ms. Belas received a copy of the minutes of the November 23, 2003 School Board meeting, a copy of an Adjudication Decision dated December

4, 2003, and a copy of the minutes from the December 4, 2003 School Board meeting. (Exhibit 2 of Appellee's Brief). She filed a timely appeal on January 16, 2004.

Discussion – Procedural Issues

Notice of Charges

On June 7, 2002, Mr. Muir informed Ms. Belas that charges would be presented against her at the June 17, 2002 Board of School Directors' meeting. On June 17, 2002, the Board of School Directors adopted a resolution charging Ms. Belas with immorality, incompetency, unsatisfactory performance based on two (2) consecutive ratings not less than four months apart, in which her performance was rated unsatisfactory, intemperance, cruelty, persistent negligence in the performance of duties, willful neglect of duties, and persistent and willful violation of or failure to comply with the school laws of the Commonwealth of Pennsylvania (including official directives and established policy of the board of directors). (District Exh. 62). Mr. Muir hand delivered a copy of the Notice of Charges to Ms. Belas on June 17, and on June 18, sent a certified copy to the Bellefonte address Ms. Belas had given him for receipt of certified mail. (N.T. 10/30/02, pp. 51, 62, 64-65; District Exh. 63). Ms. Belas questions whether this constituted a properly detailed statement of charges against her.

Section 1127 of the Public School Code requires that before a professional employee is dismissed by the board of school directors, the board of school directors must provide the professional employee with a detailed written statement of the charges upon which the proposed dismissal is based and shall conduct a hearing. 24 P.S. §11-1127. "Charges only need inform a teacher of the basis for a proposed dismissal so as to enable him to present a proper defense." *Dohanich v. Pennsylvania Department of Education*, 111 Pa. Cmwlth. 192, 198, 533 A.2d 812, 815 (1987).

The Notice of Charges issued against Ms. Belas consisted of twenty-four pages, approximately seventeen paragraphs and approximately eighty subparagraphs, that identified conduct the District believed evidenced reasons to dismiss Ms. Belas. A reading of the Notice of Charges reveals that the District provided Ms. Belas with a properly detailed written statement of charges that contained sufficient factual allegations that allowed Ms. Belas to present a proper defense.

Dismissal

From September 23, 2002 through October 22, 2003, approximately 35 days/nights of hearings were held and counsels' closing arguments were heard on November 12, 2003. At a special meeting of the Board of Directors on November 24, 2003, the Board voted on each charge that had been made against Ms. Belas by the School District's administration. (Exhibit 1 of Appellee's Brief). The Board members voted that they were in agreement with the following charges: (1) willful violation of or failure to comply with the school laws of the Commonwealth of Pennsylvania, including official directives and established policy of the Board of School Directors and Superintendent; (2) incompetency; (3) persistent negligence in the performance of duties; (4) willful neglect of duties; and, (5) intemperance. The Board then approved a motion "to consider and approve the Findings and Recommendations of the Juniata County School Board Hearing Panel in a disciplinary matter involving a Juniata County School District administrative employee, to include proper filing of documentation to the Pennsylvania Department of Education." (Exhibit 1 of Appellee's Brief, p. 2).

An Adjudication Decision, dated December 4, 2003 and signed by the Board's Hearing Officer and the Board's President, concluded that the "Hearing Board found sufficient credible evidence to establish at least six of the eight charges brought by the Juniata County School

District against Carol J. Belas and recommended that Carol J. Belas be terminated from employment with the Juniata County School District.”

On December 8, 2003, Ms. Belas’ counsel received a copy of a transmittal letter from Mr. Muir to Deputy Secretary Larkin at the Pennsylvania Department of Education transmitting the Adjudication Decision. (Exhibit B of Appellant’s Brief). On December 22, 2003, Ms. Belas received a copy of the School Board’s minutes of its November 24, 2003 meeting, the December 4, 2003 Adjudication Decision, and the School Board’s minutes of its December 4, 2003 meeting. (Exhibit 2 of Appellee’s Brief).

Ms. Belas questions whether the School Board terminated her employment with the School District, and if so, when was the decision made? Ms. Belas knew the School District had filed charges against her and was seeking to have her employment with the School District terminated. There were approximately 35 days/nights of hearings relative to the charges filed against Ms. Belas. On December 22, 2003, Ms. Belas received a copy of the November 24, 2003 School Board minutes that showed the School Board had voted to accept five of the charges that had been filed against her by the School District. After votes were recorded approving five of the charges against Ms. Belas, the School Board voted to approve the findings and recommendations of the hearing panel, including proper filing of documentation with the Pennsylvania Department of Education.

Although the terminology used by the School Board in its November 24, 2003 minutes is not a picture of clarity, Ms. Belas knew, or should have known, that in approving five of the charges against her, the School Board had terminated her employment with the School District.

Section 1129 of the Public School Code requires:

After fully hearing the charges or complaints and hearing all witnesses produced by the board and the person against whom the charges are pending, and after full, impartial and

unbiased consideration thereof, the board of school directors shall by a two-thirds vote of all the members thereof, to be recorded by roll call, determine whether such charges or complaints have been sustained and whether the evidence substantiates such charges and complaints, and if so determined shall discharge such professional employe.

On November 24, 2003, a roll call vote was taken by the School Board for each charge listed to determine if the School Board members were in agreement with the charge listed. There are nine School Board members and for five of the listed charges, seven members voted that they were in agreement with the particular charge. The School Board voted by roll call, determined that five of the charges were sustained and, thus, terminated Ms. Belas' employment.

On December 22, 2003, Ms. Belas also received a copy of the Adjudication Decision¹ dated December 4, 2003, which reaffirmed that her employment with the School District had been terminated. In addition, when Ms. Belas received the November 24, 2003 School Board minutes and the Adjudication Decision, the School District did not convey to her in any way that she should return to work. Thus, the School Board voted to terminate Ms. Belas' employment with the School District on November 24, 2003.

Notice of Dismissal

According to section 1130 of the Public School Code, written notice of the decision of the school board in discharging a professional employe is to be sent by registered mail within ten days after such hearing is actually concluded. Thus, notice of her discharge should have been sent to Ms. Belas on or before December 4, 2003. In *Williams v. Abington School District*, 40 Pa. Cmwlth. 535, 397 A.2d 1282 (1979), Mr. Williams argued that the school board's failure to provide him with written notice within ten days of the conclusion of the hearing required that he

¹ Section 1130 of the Public School Code does not require that findings of fact and a statement of reasons accompany the decision of a school board when dismissing a professional employe. *Penn-Delco School District v. Urso*, 33 Pa. Cmwlth. 501, 513, 382 A.2d 162, 168 (1978). Thus, the Juniata County School District did not have to issue the Adjudication Decision that contained findings of fact and discussion of reasons for the dismissal.

be reinstated to his position with the school district. However, Mr. Williams received written notice fifteen days later and filed a timely appeal. Thus, the Court held that absent a showing of prejudice, Mr. Williams' argument must fail.

Ms. Belas received notice of her discharge on December 22, 2003, which was twenty-eight days after the dismissal decision. (Appellant's Brief, p. 10). Ms. Belas filed a timely appeal on January 16, 2003. Although Ms. Belas did not receive notice of her discharge within ten days of the decision, she has not shown that she suffered any prejudice because of this delay. Thus, her argument that her dismissal should be reversed because she did not receive notice of her discharge within ten days must fail.

Due Process

Ms. Belas argues that she was denied due process and that there was a pro-Administration bias demonstrated throughout the hearing process, including the admission of hearsay evidence, and adoption of the Administration's Proposed Findings even though the document was out of compliance with length limitations and contained findings not in the original charges.

Pennsylvania case law is clear that the Secretary's review of the dismissal of a professional employee is *de novo*. "[T]he Secretary is vested with the authority to conduct *de novo* review whether he takes additional testimony or merely reviews the official record." *Belasco v. Board of Public Education of the School District of Pittsburgh*, 510 Pa. 504, 515, 510 A.2d 337, 343 (1986). The Secretary is the ultimate fact finder and determines the credibility of witnesses, the weight of their testimony and the inferences to be drawn therefrom. *Id.*, 510 Pa. at 513, 510 A.2d at 342. Since the Secretary decides the case anew, "events occurring procedurally

at an earlier stage of the case are irrelevant.” *Forest Area School District v. Shoup*, 153 Pa. Cmwlth. 423, 429, 621 A.2d 1121, 1125 (1993).

Therefore, Ms. Belas’ claims that she was denied due process because of a pro-Administration bias during the hearing process, the adoption of the Administration’s Proposed Findings and the introduction of hearsay are not relevant in a *de novo* review. The Secretary has reviewed the record from below, made his own findings of fact, determined the credibility of witnesses, the weight of their testimony and any inferences to be drawn therefrom. Thus, the Secretary’s *de novo* review of the School Board’s decision ensures that the requirements of due process have been satisfied. *See, Katruska v. Bethlehem Center School District*, 564 Pa. 276, 284, 767 A.2d 1051, 1055 (2001).²

² In addition to procedural events from the hearing below being irrelevant, there is no merit to Ms. Belas’ claimed injustice that the Adjudication Decision included findings on matters that were not set forth in the original charges submitted by the Administration on June 17, 2002. For example, Ms. Belas claims that findings set forth in the Adjudication Decision under Persistent and Willful Violation of or Failure to Comply with School Laws of this Commonwealth (including Official Directives and Established Policy of the Board of School Directors) were not stated in the charges submitted by the Administration under Persistent and Willful Violation of or Failure to Comply with School Laws of this Commonwealth (including Official Directives and Established Policy of the Board of School Directors).

However, Commonwealth Court has held that “[a]s long as the substance of the charges furnished the professional employee refers to one of the valid causes for dismissal under Section 1122, statutory and constitutional procedural requirements are satisfied.” *Lucciola v. Secretary of Education*, 25 Pa. Cmwlth. 419, 424, 360 A.2d 310, 312 (1976). In *Lucciola*, the statement of charges only indicated that the professional employee called in sick for two days and used personal days to go skiing for an entire week. The charges did not state specifically that the professional employee was being charged for persistent and willful violation of the school laws. However, Commonwealth Court held the charges were sufficient to inform the employee that his proposed dismissal was based on persistent and willful violation of school laws. *Id.*, 25 Pa. Cmwlth at 424, 360 A.2d at 312-13.

In *Dohanic v. Pennsylvania Department of Education*, 111 Pa. Cmwlth. 192, 533 A.2d 812 (1987), Commonwealth Court again held that even though the charge of immorality was not specifically stated in the statement of charges, immorality was sufficiently averred in the statement of charges. Thus, the failure to specify immorality in the statement of charges did not change the substance of the charges. *Id.* “Charges only need inform a teacher of the basis for a proposed dismissal so as to enable him to present a proper defense.” *Id.*, 111 Pa. Cmwlth. 198, 533 A.2d at 815.

The charges filed against Ms. Belas specifically identified the causes for dismissal permitted under Section 1122. The fact a certain event was listed in the statement of charges under a particular cause for dismissal does not mean the School Board could not conclude that the same event supported a different cause for dismissal under Section 1122. The alleged causes for dismissal were sufficiently averred in the statement of charges, which informed Ms. Belas of the basis for a proposed dismissal and enabled her to present a proper defense.

Lyness Issue

In a footnote in her Reply Brief, Ms. Belas states that at the pre-hearing stage she raised *Lyness* concerns because Dr. Zahorchak appeared with the Pennsylvania Department of Education's Chief Counsel, Lawrence White, at the hearing before the School Board and testified about Ms. Belas' employment with the Greater Johnstown School District. At the time of his testimony, Dr. Zahorchak was the Deputy Secretary of the Office of Elementary and Secondary Education in the Department. At the time Ms. Belas filed her Reply Brief, Dr. Zahorchak was the Acting Secretary of Education. The case of *Lyness v. State Board of Medicine*, 529 Pa. 535, 605 A.2d 1204 (1992), stands for the proposition that the entity or individuals involved in the decision to prosecute may not be significantly involved in the adjudicatory phase of the proceedings.

During a pre-hearing telephone conference on July 2, 2004, Ms. Belas' counsel raised a *Lyness* concern because of Chief Counsel White's appearance with Dr. Zahorchak when he testified at the hearing before the School Board. During the pre-hearing conference the Hearing Officer informed counsel for the parties that Mr. White was not involved in Ms. Belas' appeal in any manner.

In addition, other than the issue being raised by counsel at the pre-hearing conference and in a footnote notation in Ms. Belas' Reply Brief, Ms. Belas has not provided any evidence or argument to support her concerns. There is no evidence on the record, nor is there the appearance of any improper commingling of prosecutorial and adjudicatory functions in this case. Neither Mr. White nor Dr. Zahorchak were involved in the decision to "prosecute" Ms. Belas in the hearing before the School Board. Dr. Zahorchak simply testified about Ms. Belas' employment at the Greater Johnstown School District. Mr. White was not even in the room

during the testimony. (N.T. 5/12/03, p. 154). In addition, Dr. Zahorchak has had no input into the Secretary's decision about Ms. Belas' appeal and Mr. White has not provided advice to the Secretary regarding Ms. Belas' appeal. Thus, Ms. Belas' concerns about a *Lyness* violation are unfounded.

Discussion – Substantive Issues

In addition to the procedural issues raised by Ms. Belas, she also questions whether there was sufficient competent evidence to sustain her dismissal from employment with the District. Ms. Belas' dismissal was pursuant to Section 1122 of the Public School Code, *as amended*, 24 P.S. §11-1122, which provides in pertinent part:

[the] only valid causes for termination of a contract heretofore or hereafter entered into with a professional employee shall be immorality; incompetency; . . . intemperance; cruelty; persistent negligence in the performance of duties; willful neglect of duties; . . . persistent and willful violation of or failure to comply with school laws of this Commonwealth (including official directives and established policy of the board of directors); on the part of the professional employe . . .

A tenured professional employee, such as Ms. Belas, may only be dismissed for the reasons set forth in Section 1122 of the Public School Code. *Foderaro v. School District of Philadelphia*, 109 Pa. Cmwlth. 491, 494, 531 A.2d 570, 571 (1987). "It is thus apparent that the legislature intended to protect tenure except for the serious charges listed." *Lauer v. Millville Area School District*, 657 A.2d 119, 121 (Pa. Cmwlth 1995). In order to uphold Ms. Belas' dismissal, only one of these charges must be established. *Horton v. Jefferson County-DuBois Area Vocational Technical School*, 157 Pa. Cmwlth. 424, 429, 630 A.2d 481, 483 (1993). After a thorough review of the extensive record in this case, the Secretary finds that there is sufficient competent evidence to sustain the District's dismissal of Ms. Belas.

Incompetency

The Pennsylvania Supreme Court has held that incompetency as a cause for dismissal is to be given broad meaning. *Board of Public Education, School District of Philadelphia v. Soler*, 406 Pa. 168, 172, 176 A.2d 653, 655 (1961). In *Horosko v. Mount Pleasant Township School District*, 335 Pa. 369,374-75, 6 A.2d 866, 869-70 (1939) the Pennsylvania Supreme Court provided the following definition of incompetency:

The term incompetency has a common and approved usage. The context does not limit the meaning of the word to lack of substantive knowledge of the subjects to be taught. Common and approved usage give a much wider meaning. For example, in 31 C.J., with reference to a number of supporting decisions, it is defined: 'A relative term without technical meaning. It may be employed as meaning disqualification; inability; incapacity; lack of ability, legal qualifications, or fitness to discharge the required duty.' In Black's Law Dictionary, 3rd edition, page 945, and in 1 Bouv. Law Dict., Rawle's Third Revision, p. 1528, it is defined as 'Lack of ability or fitness to discharge the required duty.' Webster's New International Dictionary defines it as a 'want of physical, intellectual, or moral ability; insufficiency; inadequacy; specif., want of legal qualifications or fitness.' Funk & Wagnalls Standard Dictionary defines it as 'General lack of capacity of fitness, or lack of the special qualities required for a particular purpose.'

The Court has also interpreted incompetence to include insubordination and lack of frankness, candor and intellectual honesty. *Brownsville Area School District v. Alberts*, 436 Pa. 429, 260 A.2d 765 (1970), *citing*, *Soler*, 406 Pa. at 177, 176 A.2d at 657.

Much of Ms. Belas' conduct falls within the definition of incompetency. Although some of the conduct may appear trivial when viewed separately, an aggregate view shows Ms. Belas was incompetent in her position as principal.

Substitute Teachers

Ms. Belas created problems for teachers to request substitutes when they were going to be absent from school. Ms. Belas stated at a faculty meeting in November that she didn't know she needed to get substitutes. (N.T. 2/27/03, p. 125). Ms. Lauver learned early in the school

year that Ms. Belas did not like to call substitutes and she gave teachers three telephone numbers to call, which created confusion. (N.T. 1/8/03, p. 94-96). In September 2001, Ms. Flurie called to request a substitute and she had to tell Ms. Belas who she was and where she taught at least four or five times. (N.T. 2/25/03, pp. 69-70). In January 2002 when Ms. Haines attempted to call Ms. Belas to request a substitute she was told the number was no longer available even though Ms. Belas had indicated it was the best number at which to reach her. (N.T. 1/22/03, p. 26). Ms. Bassler had difficulty reaching Ms. Belas on a Sunday to request a substitute for Monday. (N.T. 1/15/03, pp. 21-24). There were also times when two substitutes were called for one teacher or there were rooms without substitutes. (N.T. 1/8/03, pp. 95-96; 1/15/03, p. 24).

Recurring questions and failure to help

Not only did teachers have difficulty obtaining substitutes through Ms. Belas, they also had difficulty getting answers from Ms. Belas and had to repeatedly provide the same information to Ms. Belas. In early June, Ms. Belas called Ms. Lauver and asked for the phone number of the Susquehanna Township police because she had been in a car accident. Ms. Lauver told Ms. Belas that there were no township police and she must call the Pennsylvania State Police. Approximately five minutes later, Ms. Belas again called Ms. Lauver and again asked her the phone number for the Susquehanna Township police. (N.T. 1/8/03, pp. 110-11).

Teachers found that Ms. Belas had a hard time focusing, would ask the same questions over and over again, had to be told the same things over and over again, and made everything more difficult. (N.T. 2/12/03, p. 143; 3/12/03, pp. 33, 35). When Dr. Harris answered a question from Ms. Belas, Ms. Belas either seemed to forget the answer or did not understand and would ask the same question again. (N.T. 3/26/03, p. 50). Ms. Belas also received copies of documents she requested from Ms. Becker and then asked Ms. Becker for copies of the same documents the

next week. (N.T. 3/28/03, p. 147). In February 2002, Ms. Belas asked Ms. Trout how to handle ESY in IEP meetings, even though they had discussed this in other meetings. Ms. Trout explained it to Ms. Belas and Ms. Belas then called Ms. Trout with the same question the next day. (N.T. 4/2/03, pp. 16-17). When teachers tried to get answers from Ms. Belas, she would not give an answer, would skirt around the issue, would turn the conversation to a different topic and would talk about unrelated things. (N.T. 1/22/03, p. 104; 2/25/03, p. 74).

Failure to interact with students and teachers

Ms. Belas spent a lot of time in her office with the door closed and talking on the telephone. (N.T. 1/8/03, p. 137; 1/13/03, pp. 74-75; 1/15/03, pp. 39-40; 1/22/03, p. 28; 3/28/03, pp. 60-61, 145). Ms. Belas was not around students or teachers much, seldom spoke to students, had trouble remembering the names of students, teachers, and parents, and knowing classrooms. (N.T. 1/8/03, p. 137; 1/13/03, p. 92; 1/15/03, pp. 39-40; 1/22/03, p. 28; 3/28/03, pp. 60-61). Ms. Belas did not know Ms. Elsasser's students and the students did not know Ms. Belas was the principal because Ms. Belas did not go into Ms. Elsasser's room very often. (N.T. 2/27/03, p. 112). Ms. Shambaugh never saw Ms. Belas interact with students. (N.T. 3/12/03, pp. 35-36). Ms. Peck's three children did not know Ms. Belas was the principal at Thompsontown for a long time because Ms. Belas did not introduce herself to the students. (N.T. 3/12/03, p. 108). Ms. Yetter introduced her children to Ms. Belas in September and had to do so again in December because Ms. Belas did not remember them. (N.T. 1/23/03, pp. 109-10, 117-18). Ms. Sheaffer, who was a lunch monitor at Thompsontown, never saw Ms. Belas talk to students in the lunchroom and Ms. Belas did not know Ms. Sheaffer's name when introducing her as a judge at the spelling bee in January 2002. (N.T. 2/12/03, pp. 108, 111). Ms. Belas did not introduce

herself to Susquehanna students and by October 2, 2001 did not know the names of the four teachers at Susquehanna. (N.T. 2/12/03, pp. 137-38).

Death of a student

On Friday, January 25, 2002, a Thompsett student was killed and the school was placed on “lock down” status. Ms. Belas did not go to Thompsett until approximately 12:30 or 1:00 that day. (N.T. 1/13/03, p. 84; 1/23/03, pp. 115-17; 2/27/03, pp. 12-14). Ms. Belas did not show compassion to the Thompsett teachers or to the family. (N.T. 1/22/03, pp. 33, 36; 1/23/03, pp. 115-17). Ms. Reichart, the team leader of a Crisis Response team that was called in on January 28, noticed the tension between the staff and Ms. Belas and was struck by Ms. Belas’s seeming lack of sympathy or feeling toward what was happening emotionally with her staff. (N.T. 3/28/03, p. 184). Ms. Belas was also very resistant to, or at least put off complying with, Ms. Reichart’s request for one or two floater substitutes on Monday so teachers could leave their rooms to compose themselves when necessary. (N.T. 3/28/03, p. 185). Ms. Belas was concerned with writing a newsletter to send home to parents and told Ms. Kennel, the guidance counselor, that Ms. Kennel could do the “feeling stuff” because Ms. Belas was not good with that part. (N.T. 2/27/03, pp. 16, 19). Ms. Belas made a fuss about teachers going to the student’s funeral because she thought she needed to get substitutes but the Intermediate Unit was already going to provide substitutes. (N.T. 1/13/03, pp. 85-86).

Ms. Reichart noted that Ms. Belas was more concerned with her needs and monopolized the crisis team’s time with inconsequential talk, such as needing to make a hair appointment, asking what they thought of her hair color, and talking about shopping. (N.T. 3/28/03, p. 187). Ms. Reichart’s crisis team used the principal’s office for a private place to talk to people, but Ms. Belas came in a lot and, at one point, Ms. Reichart had to ask her to leave. (N.T. 3/28/03, p.

183). On Monday, Ms. Kennel does not remember Ms. Belas interacting with teachers and no students went to talk to Ms. Belas. (N.T. 2/27/03, pp. 17-18). Both Ms. Kennel and Ms. Reichart asked Mr. Muir to remove Ms. Belas from Thompsontown for the duration of the crisis because the teachers were stressed and Ms. Belas was upsetting everyone. (N.T. 1/13/03, p. 86; 2/27/03, p. 21; 3/28/03, p.190).

Lack of frankness, candor and intellectual honesty

Some of Ms. Belas' conduct evidences a lack of frankness, candor and intellectual honesty.

When she applied for the principal position with the District, Ms. Belas provided the District with a resume of her education and educational work experience. (District Exh. 1). Ms. Belas listed her employment, in chronological order, with Fort Cherry School District (1993-94), Chartiers Valley School District (1994-1996), New Brighton School District (1996-97), Greater Johnstown School District (1999-2000) and Bald Eagle Area School District (2000 to present). Not listed in this chronological sequence was her employment with the West Shore School District and the Hamburg Area School District. There were also no dates of employment provided for her employment with West Shore and Hamburg.

After hearing concerns from staff about Ms. Belas, Mr. Muir looked into Ms. Belas' job history at other school districts in Pennsylvania. (N.T. 9/23/02, pp. 67, 72-73). Mr. Muir heard that there were confidentiality agreements between Ms. Belas and other school districts where she had been employed. (N.T. 9/23/02, pp. 72-73). Mr. Muir also learned that Ms. Belas did not have a confidentiality agreement with West Shore or Hamburg and that she had been asked to leave West Shore and was given the choice of resigning or having termination proceedings

commenced against her by Hamburg. (N.T. 9/23/02, p. 73; 2/26/03, pp. 53, 59; 6/9/03, p. 19).

Ms. Belas chose to resign from Hamburg. (N.T. 6/9/03, p. 21).

It is a reasonable inference that Ms. Belas deliberately placed her employment with West Shore and Hamburg out of chronological order on her resume and without dates of employment. These were two districts from which she was asked to leave or forced to resign and from which she did not have a confidentiality agreement. Adding the chronological misplacement of these employers on Ms. Belas' resume with the fact that she continually refused to tell Mr. Muir the reasons she had left her employment with other school districts evidences a lack of frankness, candor and intellectual honesty.³

Ms. Belas stated she made no personal phone calls from district telephones. When told at a February 22, 2002 meeting that the District's phone log showed she had made three personal calls, she qualified her statement by saying she did not make many personal calls. (N.T. 3/26/03, p. 58; 10/29/03, pp. 36-38). When Ms. Belas was suspended in February 2002, Mr. Muir told her she still needed to attend the Penn State class, which was part of her Improvement Plan. Ms. Belas said her attorney said she did not have to attend the class and upon her return from suspension told Mr. Muir she had not attended the February 26 class. (N.T. 10/29/02, pp. 47-48). However, when she provided Mr. Muir with a summary of the classes, it included informal notes from the February 26 class and she then said she attended the class. (N.T. 10/29/02, pp. 78-79; District Exh. 33).

On May 2, 2002, Mr. Muir gave Ms. Belas an unsatisfactory rating for the first semester that was to accompany the January 31 unsatisfactory evaluation. (N.T. 10/29/02, pp. 108-09; District Exhs. 48, 49). Ms. Belas signed a copy of her unsatisfactory rating and noted she was

³ Ms. Belas' continual refusal to provide Mr. Muir with information about why she left employment with other school districts is discussed in more detail later in this opinion under *Persistent and Wilful Violation of or Failure to Comply with School Laws (including official directives and established policy of the board of directors)*.

not given an opportunity to discuss it with the rater. However, in a memorandum from Ms. Belas to Mr. Muir she stated she saw no need to discuss the rating because it would have been an exercise in futility. (N.T. 10/29/02, pp. 111-12, 114; District Exhs. 49, 50).

Within the first few weeks of school, Ms. Belas told the faculty at Monroe that Ms. Lauver was having a problem with not being able to use the copy machine when necessary. However, this was not true. (N.T. 1/8/03, pp. 91-93). When Ms. Lauver was out of work in January 2002, Ms. Belas told her that Mr. Muir needed information about how she was accounting for her time off. Mr. Muir had not asked Ms. Belas for this information. (N.T. 1/8/03, pp. 121-22). Ms. Belas also told Ms. Trout that when she was absent she had to call each building that she was to be working in that day. However, Mr. Muir informed Ms. Trout that was not true and that she only had to call the principal in the building where she was to start her day. (N.T. 4/2/03, pp. 94-95, 113).

All of the above conduct by Ms. Belas shows that she had the inability, incapacity or fitness to discharge the required duties of a principal or lacked frankness, candor and intellectual honesty. Thus, Ms. Belas' conduct falls within the definition of incompetency, which is a basis for dismissing her from her employment with the District.

Persistent Negligence in the Performance of Duties

Persistent negligence in the performance of duties is not defined in the Public School Code. However, negligence is defined "as the failure to exercise that care a reasonable person would exercise under the circumstances." *Lauer*, 657 A.2d at 121. Persistent is defined as continuing or constant, thus, "there must be sufficient continuity and repetition of negligent acts to support a charge of persistent negligence." *Id.* This can occur either as a series of individual

incidences or as one incident carried on for a substantial period of time. *Strinich v. Clairton School District*, 494 Pa. 297, 305, 431 A.2d 267, 271 (1981).⁴

IEPs, IEP Meetings and IST Meetings

School principals were to put information on Permission to Evaluate forms, forward them to Dr. Hazel's office and then to Ms. Wyglinski, the school psychologist. (N.T. 3/11/03, pp. 35-36). This process with Ms. Belas was very difficult and the forms were consistently incomplete or completed incorrectly. (N.T. 3/11/03, p. 38). Dr. Hazel met with Ms. Belas again on February 14, 2002 to review procedures for Permission to Evaluate and Reevaluate because Ms. Belas was showing difficulty in accurately completing the forms. (N.T. 4/9/03, pp. 116-17). After an IEP meeting, Ms. Belas stated she would take the IEP home, tweak it and return it to the building and the parents the next day. However, she was told that this was illegal. (N.T. 3/11/03, p. 49). Ms. Belas also wanted to set up meetings to discuss student evaluation results even before Ms. Wyglinski had permission to conduct the evaluations. (N.T. 3/11/03, p. 63). Ms. Belas asked Ms. Shambaugh how to fill out a NOREP and asked her to help write an IEP for a student Ms. Shambaugh had never met. Ms. Belas was also writing the IEP before the IEP meeting, which was not proper. (N.T. 3/12/03, p. 32).

Dr. Hazel met with Ms. Belas in September to review the special education process and informed Ms. Belas that the procedures in the binder they were using were correct but that the forms were old and were to be replaced with forms given to her at the August in-service. (N.T. 4/9/03, pp. 81-82, 86, 93). When Dr. Hazel performed a file review with Ms. Belas to make sure all forms were completed and accurate, Ms. Belas showed great difficulty with the review and

⁴ Part of *Strinich*, which is not relevant here, was overruled by *Belasco v. Board of Public Education of the School District of Pittsburgh*, 510 Pa. 504, 510 A.2d 337 (1986).

had trouble with the forms she had been given at the in-service in August. (N.T. 4/9/03, pp. 108-10).

In October 2001, Dr. Hazel attended four IEP meetings for students in Ms. Belas' buildings because Ms. Belas refused to attend 8:00 IEP meetings. (N.T. 4/9/03, pp. 121-22). Also in October 2001, Ms. Belas arrived twenty minutes late to an IEP meeting and then proceeded to work in notebooks that appeared to be unrelated to the meeting. (N.T. 1/22/03, pp. 22-24). Even though it was not proper procedure, Ms. Belas suggested that Ms. Yetter contact parents before IEP meetings to go over details so the meetings would be shorter. (N.T. 1/23/03, p. 121). When a parent had a list of names of people she wanted invited to an IEP meeting, Ms. Belas wanted to send blank invitation forms to the parent so the parent would send the invitations to others, which is not proper procedure, rather than having the school send the invitations. (N.T. 2/12/03, pp. 22-23). During an IEP meeting in December 2001, Ms. Belas had to ask if the District used six week or nine week marking periods. (N.T. 2/12/03, p. 36). To comply with a student's IEP, Ms. Belas was to read a test to the student. Ms. Yetter concluded, after talking to the student, that his IEP had not been fulfilled because the test had not been properly administered. (N.T. 1/23/03, pp. 124-25, 127-29).

There were occasions during IEP meetings when Ms. Belas would be ripping papers and tossing them on the floor, shuffling papers, doing her own thing, and making little eye contact. Other times Ms. Belas would be involved but say things off subject. (N.T. 4/2/03, p. 18). During one IEP meeting, discussion involved a student who would not take responsibility for his actions and Ms. Belas asked "doesn't he have a brother he can blame things on?" The student's brother had been killed, which was the reason the student was in learning support but Ms. Belas never apologized for the remark. (N.T. 1/22/03, pp. 22-24).

At an IEP meeting in December 2001, Ms. Belas had phone logs and she was writing things rather than dealing with issues with the student. (N.T. 3/28/03, p. 30). During an observation of Ms. Belas in an IEP meeting, Dr. Harris had to suggest bringing the student into the meeting because the meeting was not being held in the most efficient and correct manner, and she had to raise other issues that Ms. Belas did not. (N.T. 3/26/03, pp. 39-41; District Exh. 145). Dr. Hazel observed Ms. Belas at an IEP meeting and found Ms. Belas was good at sharing procedural safeguards but her voice fell off when answering questions about PSSA testing and ESY. Ms. Belas had to be reminded to include a regular education teacher in the meeting and she was writing the NOREP when the speech clinician was conducting the IEP meeting. (N.T. 5/12/03, pp. 56-57).

In February 2002, Ms. Belas was at Susquehanna taking IEP files out of drawers and making copies. Ms. Belas received a telephone call from the District Office and left the school while leaving the IEP files on the table in the office. (N.T. 1/13/03, pp. 17-18). When Ms. Flurie saw these were IEP files she took pictures of them and then she and Ms. Delbaugh put them in a locked drawer. (N.T. 2/25/03, pp. 86-92).

Ms. Belas missed the first two support team meetings of the IST team even though the time had been changed to accommodate her; one of the meetings she was lost and the other meeting she simply did not attend. (N.T. 3/28/03, pp. 27-28). Ms. Belas was not prepared for IST meetings, usually had confidential files with her, and because she was working on other paperwork, would ask questions that had already been answered. (N.T. 3/12/03, p. 28).

Interruptions of Instructional Time

Ms. Belas would frequently interrupt Ms. Haines' instructional time by coming into her classroom and speaking to Ms. Haines rather than waiting in the doorway for Ms. Haines. (N.T.

1/22/03, pp. 21-22). Ms. Belas interrupted Ms. Taylor's instructional time and required Ms. Taylor to complete a testing survey that was not applicable to Ms. Taylor. (N.T. 1/22/03, p. 92). Ms. Belas interrupted Ms. Brogan's instructional time saying she had something important to discuss with Ms. Brogan. Ms. Belas then told her that she had been shopping and found color that would color the "ashiness" in Ms. Brogan's hair. (N.T. 2/25/03, pp. 14-15).

All of the above conduct shows that Ms. Belas continually failed to exercise the care that a reasonable person would under the circumstances. Thus, Ms. Belas' conduct falls within the definition of persistent negligence in the performance of duties, which is a basis for dismissing her from her employment with the District.

Wilful Neglect of Duties

Wilful neglect of duties is a proper reason to dismiss a professional employee. 24 P.S. §11-1122. Wilful neglect is not defined in the Public School Code and there are few cases that have provided a definition. *See, Williams v. Clearfield County Vocational-Technical School*, TTA No. 4-99. "Wilfulness requires the presence of intention and at least some power of choice." *Horton*, 157 Pa. Cmwlth. at 431, 630 A.2d at 484. Neglect is defined as ignoring, disregarding, failing to care for or give proper attention to something, or failing to do or carry out, as through oversight or carelessness. *Webster's II New College Dictionary 1995*. Neglect may also mean an omission to do or perform some work, duty or act. *Black's Law Dictionary, (Sixth Ed. 1990)*.

At the beginning of the 2001-2002 school year, even though school began on August 29, Ms. Belas failed to go to Susquehanna, which was one of the schools for which she was responsible, until September 6 - six working days after school began. (N.T. 1/13/03, p. 7; 2/12/03, p. 137). One day, Ms. Belas rendered aid to a Thompsontown student and called her

mother when the student chipped her tooth during school. When the mother took an insurance form to Ms. Belas to sign regarding the incident, Ms. Belas refused to sign it. Ms. Belas first argued the incident did not happen at school and then said she did not remember the event. The school nurse had to sign the insurance form for the parent. (N.T. 1/13/03, pp. 80-81; 4/9/03, pp. 24-27, 31-32).

Ms. Belas was told she was responsible for depositing lunch money from Susquehanna at the bank. Ms. Belas said she would not do this and told the head cook, Ms. Flowers, to make the deposits and give Ms. Belas records of the deposits. (N.T. 2/12/03, pp. 114-15). Ms. Flowers asked Ms. Belas for the night deposit key but Ms. Belas never gave it to her. (N.T. 2/12/03, pp. 118, 128-29; N.T. 3/26/03, pp. 12-13).

Ms. Belas was supposed to hand deliver paychecks to the teachers at Susquehanna but Ms. Belas decided that she would not deliver the paychecks to the Susquehanna teachers. (N.T. 9/25/03, p. 99). Ms. Belas did not tell the teachers their checks would be mailed prior to doing so, and told the teachers she mailed them because she did not think she could get to Susquehanna every two weeks on payday. (N.T. 2/25/03, pp. 17, 28, 31, 81). Ms. Belas did not discuss with Mr. Muir the mailing of paychecks to Susquehanna teachers and Mr. Muir did not authorize Ms. Belas to mail paychecks without telling the teachers. (N.T. 10/22/03, pp. 115-16).

Ms. Belas was the only principal in the District to ask the guidance counselor, Ms. Kennel, to deal with discipline and behavior problems in her schools. (N.T. 2/27/03, pp. 9, 26-28, 30-36, 41-42). The principal, not the guidance counselor, should handle discipline and behavior problems. (N.T. 2/27/03, pp. 84-89).

Ms. Peck was the President of the Home and School Association during the 2001-2002 school year. Ms. Peck left three messages for Ms. Belas to call her so they could set up dates for

special activities provided by the Association. Ms. Belas never called. (N.T. 3/12/03, pp. 102-03). Ms. Belas failed to put the first field trip of the year for Thompsett students on the School Board's agenda for approval. The trip would not have been approved if Mr. Muir had not brought it before the School Board for approval. (N.T. 3/12/03, p. 104; 3/28/03, p. 155).

At the principals' meeting in October or November 2001, Ms. Belas was given a specific schedule to deal with supply orders. The Assistant Business Manager, Mr. Bahorick, worked with Ms. Belas on supply orders but when it became apparent Ms. Belas would not get the orders done by January 2002, Mr. Bahorick worked with the secretaries in Ms. Belas' buildings to do the orders. (N.T. 3/26/03, pp. 16, 20).

Dr. Hazel handed out PSSA results in September but Ms. Belas said she thought the previous principal misplaced them. The test results were eventually found on Ms. Belas' desk. (N.T. 3/28/03, pp. 38-39). On January 30, 2002, Ms. Lauver found an envelope on Ms. Belas' desk with a Permission to Evaluate form in it that had been sent in by the parent dated October 15, 2001. (N.T. 1/8/03, pp. 119-20). One day when Ms. Snyder, a lunch monitor at Monroe, was having difficulty with students in the lunchroom, she asked Ms. Belas to help her because the class was not listening and not cleaning up. Ms. Belas questioned what it was she was to do, walked out of the lunchroom and did not help Ms. Snyder. (N.T. 1/9/03, p. 98).

Ms. Belas had some power of choice regarding all the above-described events. Ms. Belas chose to ignore, disregard, not care for or give proper attention to these things, and failed to perform her work and duties. Thus, Ms. Belas' conduct falls within the definition of willful neglect of duties, which is a basis for dismissing her from her employment with the District.

Intemperance

Loss of self-control is the main element of intemperance. *Belasco v. Board of Public Education of School District of Pittsburgh*, 87 Pa. Cmwlth. 5, 10, 486 A.2d 538, 541-42 (1985), *aff'd*, 510 Pa. 504, 510 A.2d 337 (1986). Intemperance is also defined as “a loss of self-control or self-restraint, which may result from excessive conduct.” 22 Pa. Code §237.5.

Ms. Belas made statements to staff that caused staff to be fearful of, or threatened by, Ms. Belas. Ms. Belas told Ms. Delbaugh and Ms. Snyder that if anyone said anything against her or spread untrue things about her she would get even or get revenge. (N.T. 1/9/03, pp. 96-97; 1/13/03, pp. 9-10). Ms. Belas also told Dr. Hazel that if Dr. Hazel ever said anything against Ms. Belas, she would make Dr. Hazel pay. (N.T. 5/12/03, p. 97).

Prior to a February 7, 2002 IEP meeting, Ms. Belas told Ms. Wyglinski that she needed to talk to her about a student she believed needed more testing. Ms. Wyglinski told Ms. Belas to send her documents she could review and she would then get in touch with Ms. Belas. Ms. Belas did not send Ms. Wyglinski the requested documents but tried on two more occasions to discuss this student with Ms. Wyglinski. (N.T. 3/11/03, pp. 55-57). On February 8, 2002, Ms. Wyglinski had her door closed because she was dealing with a crisis at another school. Ms. Belas wanted to talk to Ms. Wyglinski about the student referenced above and, even though Ms. Belas was told that Ms. Wyglinski was on a crisis call, Ms. Belas knocked on the closed door three different times. Because of Ms. Belas' conduct, Ms. Wyglinski had to go to the other school to deal with the crisis. (N.T. 3/11/03, pp. 57-58).

Ms. Belas' conduct in these instances show a loss of self-control or self-restraint. Thus, Ms. Belas' conduct falls within the definition of intemperance, which is a basis for dismissing her from her employment with the District.

Persistent and Wilful Violation of or Failure to Comply with School Laws (including official directives and established policy of the board of directors)

The following three elements must be met to determine that a persistent and willful violation of school laws has occurred: persistency, willfulness and a violation of school law. Persistency occurs either as a series of individual incidents or one incident carried on for a substantial period of time. *Gobla v. Board of School Directors of Crestwood School District*, 51 Pa. Cmwlth. 539, 414 A.2d 772 (1980). Willfulness requires the presence of intention and some power of choice. *Horton*, 630 A.2d at 484. A violation of school laws includes a violation of a school district's rules and orders. *Sertik v. School District of Pittsburgh*, 136 Pa. Cmwlth. 594, 584 A.2d 390 (1990).

During a meeting on November 19, 2001, Mr. Muir asked Ms. Belas about her work history and why she left employment at other school districts. Ms. Belas would not answer the questions and asked Mr. Muir why he wanted to know this information and if she was in trouble. (N.T. 3/21/03, pp. 51-53). At a December 3, 2001 performance review, Mr. Muir asked Ms. Belas about the school districts on her resume and why she left the districts. Ms. Belas again refused to respond and refused to give reasons why she left the districts. (N.T. 9/23/02, p. 74; 3/26/03, pp. 56-57). Mr. Muir asked Ms. Belas to give him a corrected copy of her resume. Ms. Belas failed to do so and Mr. Muir provided her with a format to respond and specifically state the reasons she left school districts where she had previously been employed. (N.T. 9/23/02, pp. 74-75; District Exh. 6). Ms. Belas placed a question mark in the column entitled "Reason to Leave" and said she did not understand what it meant. (N.T. 9/23/02, pp. 75-76; 10/7/03, pp. 45-48). During a February 15, 2003 meeting, Mr. Muir again asked Ms. Belas about dates on her resume and she said she was afraid to give permanent dates. (N.T. 5/12/03, p. 65).

Ms. Belas' conduct shows that she continually chose to refuse to respond to Mr. Muir's directives to provide information about her previous employment. It is unbelievable that with Ms. Belas' education and experience she did not understand what "Reason to Leave" meant. Even if it was conceded that the phrase was confusing, Ms. Belas clearly knew what information Mr. Muir was seeking as he had asked her repeatedly for the information about her previous employment and why she left other school districts. Ms. Belas' persistent refusal to provide information about her previous employment, as was requested on numerous occasions by her superior, Mr. Muir, constitutes persistent and willful violation of or failure to comply with school laws (including official directives and established policy of the board of directors), which is a basis for dismissing her from her employment with the District.

Campaign of Administrative Terror

Ms. Belas has argued that Mr. Muir "engaged in a several months long all out campaign of administrative terror" against Ms. Belas. *Appellant' Brief*, pp. 22-39. However, it is clear that Mr. Muir was first contacted by staff early in the school year with complaints and concerns about Ms. Belas and her behavior. (N.T. 9/23/02, p. 44). Mr. Muir met with Ms. Belas November 19, 2001 to address the concerns that had been raised by staff. (N.T. 9/23/02, pp. 57-58). By letter dated November 29, 2001, Ms. Belas acknowledged that she heard Mr. Muir's suggestions and that she intended to rectify Mr. Muir's concerns. (N.T. 9/25/03, pp. 130-31; Belas Exh. 1). It is clear, however, through the testimony of District staff, that Ms. Belas did not rectify Mr. Muir's concerns and did not correct her problematic behaviors.

Mr. Muir provided Ms. Belas with a three-month performance review in December 2001 and her first evaluation in January 2002, which identified problems with her performance. (N.T. 9/23/02, p. 60; 10/29/02, pp. 8-9; District Exhs. 5, 11). Mr. Muir then began to issue reprimands

to Ms. Belas because her problematic behaviors continued. (N.T. 10/29/02, p.13). Mr. Muir provided Ms. Belas with an Improvement Plan on February 13, 2002 because the behaviors identified in the January evaluation and February 8 reprimand were continuing. (N.T. 10/29/02, pp. 17-19; District Exh. 15). Mr. Muir held meetings with Ms. Belas, issued reprimands to her, suspended her for three days in February, all in an attempt to get Ms. Belas to understand that her behaviors were problematic and that she needed to change them. Mr. Muir's conduct was reasonable considering Ms. Belas' problematic behaviors, which have been identified through testimony of approximately forty-three people.

Even though Ms. Belas may believe many of the complaints appear trivial, the District clearly established that, when viewed in the aggregate, these complaints evidence an unacceptable pattern of conduct by Ms. Belas. There is sufficient evidence in the record to support the District's dismissal of Ms. Belas.

Accordingly, the following Order is entered:

**IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

CAROL J. BELAS,	:	
Appellant,	:	
	:	
v.	:	TTA No. 02-04
	:	
JUNIATA COUNTY SCHOOL	:	
DISTRICT	:	
Appellee	:	

ORDER

AND NOW, this 11th day of August, 2005, it is hereby ordered and decreed that the appeal of Carol J. Belas is denied and the decision of the Juniata County School District to dismiss Carol J. Belas from employment with the Juniata County School District is affirmed.

_____/s/_____
Francis V. Barnes, Ph.D.
Secretary of Education

Date Mailed: August 11, 2005