

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

FAITH KLINE	:	
Appellant	:	
	:	
	:	Teacher Tenure Appeal
	:	No. 1-05
	:	
LOYALSOCK TOWNSHIP SCHOOL DISTRICT	:	
Appellee	:	

OPINION AND ORDER

Faith Kline (“Kline”) appeals to the Secretary of Education from the decision of the Loyalsock Township School District Board of Directors (“Board”) dismissing her from her position as elementary school principal.

FINDINGS OF FACT

1. At all relevant times hereto, Kline was a professional employee of the Loyalsock Township School District (LTSD).
2. Kline was hired as an elementary school principal by the LTSD in July of 2003. (N.T. 11/8/04 at p. 14; N.T. 11/9/04 at p. 164).¹
3. During the 2003-2004 school year, Kline’s principalship involved the management of two buildings: Becht Elementary School Building and Four-Mile Elementary School Building. (N.T. 11/9/2004 at pp. 164-165).
4. In September of 2003, only two months after Kline was hired, concerns regarding her performance as elementary school principal came to the attention of the Superintendent, Dr. Richard J. Mextorf. (N.T. 11/8/04 at p. 15).

¹ The abbreviation “N.T.” refers to Notes of Testimony of three separate hearings before the Board held on November 8, 2004, November 9, 2004 and November 30, 2004. References to Notes of Testimony in this Opinion and Order will identify both the date of the relevant session(s) and the page number(s) at which the referenced cite is found.

5. Initially, the concerns that reached Dr. Mextorf related to Kline's inability to effectively communicate with parents and teachers about significant procedural changes being made by Kline. (N.T. 11/8/04 at pp. 15-16).
6. Noteworthy changes that Kline implemented in her first few weeks as elementary principal were 1) enforcing a policy that discouraged parents from bringing forgotten items to school, 2) changing the morning routine and 3) altering the lunch recess routine. (N.T. 11/8/04 at pp. 15-16).
7. In implementing these changes, Kline failed to consider the social mores of the community and, more importantly, failed to effectively communicate the details and reasoning behind the changes, resulting in confusion and misunderstanding among parents and teachers. In effect, Kline's inability to smoothly implement her desired changes resulted in poor relationships between Kline and her staff as well as the parents affected by the changes. (N.T. 11/8/04 at p. 16).
8. By November of 2003, concerns emerged that Kline was not accessible to parents and teachers. (N.T. 11/8/04 at p. 16-19).
9. In January of 2004, the Board began receiving letters complaining of Kline's performance as principal. (N.T. 11/8/04 at p. 47; Admin. Exhs. 13-19).
10. The Administration, through Dr. Mextorf, categorized the complaints in the letters as relating to problems with Kline's confidentiality, trustworthiness and judgment. (N.T. 11/8/04 at p. 51; Admin. Exhs. 13-19).
11. In response to the information gathered from various sources, including conversations with parents and teachers as well as the complaint letters

received by the Board, Dr. Mextorf created an action plan ("April Action Plan"), which he issued to Kline in April of 2004. (N.T. 11/8/04 at pp. 53-54; Admin. Exh. 20; Kline Exh. 2).

12. The April Action Plan set forth general concerns about Kline's performance, namely that parents felt unwelcome at the elementary school, that Kline exhibited poor communication skills and that she was thought to be inaccessible. (N.T. 11/8/04 at p. 55; Admin. Exh. 20; Kline Exh. 2).
13. In addition to general concerns, the April Action Plan addressed five specific problems, including the morning routine, the procedure for forgotten items, morning recess, lunch procedures and Kline's accessibility to parents and staff. (Admin. Exh. 20; Kline Exh. 2).
14. The April Action Plan instructed Kline to remediate the problems by building sound internal and external relationships, improving the perception of her accessibility among parents, being visible and maintaining professionalism. (Admin. Exh. 20; Kline Exh. 2).
15. Dr. Mextorf, via the April Action Plan, directed Kline to improve her professionalism by altering her demeanor to portray a sense of calm and to maintain confidential information. (Admin. Exh. 20; Kline Exh. 2).
16. Kline's response to the April Action Plan is set forth in a six-page document entitled "Action Plan Response" and dated April 20, 2004. (Admin. Exh. 21; Kline Exh. 3).
17. Kline's response to the April Action Plan was defensive in nature and failed to recognize that the Administration was dissatisfied with her performance as elementary school principal. In Kline's response, she failed to adequately address important concerns raised in the April

Action Plan, namely those concerns relating to the communication gap between herself and parents, her need to improve both internal and external relationships and her lack of professionalism. (N.T. 11/8/04 at pp. 75-76; Admin. Exh. 20 – 21; Kline Exh. 3).

18. Dr. Mextorf, as Superintendent, developed a symbol to represent the District's vision. The symbol was that of an iceberg, with the tip representing the visible aspect of the District and the submerged part representing the philosophical underpinnings of the District's holistic approach to education. (N.T. 11/8/04 at pp. 81-82).
19. Subsequent to the issuance of the April Action Plan, Kline contributed to a caricature that mocked the District's vision. The caricature portrayed Dr. Mextorf standing on the top of an iceberg with staff members of the District jumping off the iceberg and swimming to surrounding districts. (N.T. 11/8/04 at pp. 81-82, 88, 89, 256, 257).
20. When confronted about the caricature, Kline first denied any involvement; however, she later admitted that she had participated in the drawing. (N.T. 11/8/04 at p. 75-76).
21. In June 2004, Kline received an unsatisfactory rating for her performance as elementary school principal for the 2003-2004 school year. (N.T. 11/8/04 at p. 100; Admin. Exh. 29).
22. As a result of the unsatisfactory rating, a second Corrective Action Plan ("June Action Plan") was prepared by Dr. Mextorf for Kline. (N.T. 11/8/04 at p. 102; Admin. Exh. 32).
23. The June Action Plan repeated several general themes that were first addressed in the April Action Plan, including maintaining confidentiality with all internal and external constituents as well as conveying a professional demeanor. Further, the June Action Plan addressed specific

problems that remained unresolved since the April Action Plan, namely the issue relating to coats in the lunchroom, which is more fully discussed herein at paragraph 27. (Admin. Exh. 20, 32).

24. While Dr. Mextorf believed that Kline's performance as elementary school principal was less than satisfactory, he felt that she should be given an opportunity to remediate the problems. (N.T. 11/8/04 at p. 104).
25. Thus, in July of 2004, Dr. Mextorf submitted PDE Form 338P on Kline's behalf and, in doing so, verified that Kline had achieved at least a satisfactory rating on the PDE 427 evaluation form, despite his earlier determination that Kline's performance for the 2003-2004 school year was, in fact, unsatisfactory. (N.T. 11/8/04 at p. 104; N.T. 11/9/05 at p. 228; Kline Exh. 1).
26. On October 5, 2004, Kline sent an electronic mail message ("e-mail") to Dr. Mextorf briefing him on a Parent Teacher Organization (PTO) meeting that had occurred during the previous evening. (N.T. 11/8/04 at pp. 105-107; Admin. Exh. 34, Kline Exh. 11).
27. The main point of the October 5th e-mail was to update Dr. Mextorf and obtain his feedback on an issue that had been festering since April of 2004, that is, whether the students should bring their coats to the lunchroom or whether the students should leave their coats in their respective classrooms during lunch (hereinafter referred to as the "lunchroom/coat issue"). (N.T. 11/8/04 at pp. 105-107; Admin. Exh. 34, Kline Exh. 11).
28. Parents expressed different views on the lunchroom/coat issue; and, therefore, Kline suggested in her October 5th e-mail to Dr. Mextorf that

- a survey be taken to gather the viewpoints of parents. (N.T. 11/8/04 at pp. 105-107; N.T. 11/9/04 at p. 207; Admin. Exh. 34; Kline Exh. 11).
29. In response to Kline's suggestion to send surveys to parents, Dr. Mextorf replied in an e-mail message to Kline stating simply, "No surveys. We'll talk." (N.T. 11/8/04 at pp. 106; Admin. Exh. 34, Kline Exh. 11).
30. Notwithstanding Dr. Mextorf's clear directive instructing Kline to withhold from sending the surveys, Kline authorized a PTO member to issue the survey to parents. (N.T. 11/8/04 at p. 102; N.T. 11/9/04 at p. 211; Admin. Exh. 32).
31. On October 15, 2004, Dr. Mextorf provided Kline with a written evaluation of her progress in implementing the objectives set forth in the June Action Plan. The evaluation noted that Kline had failed to resolve longstanding problems, such as the lunchroom/coat issue and the morning routine. (Admin. Exh. 38; Kline Exh. 4).
32. The evaluation also cited Kline's disobedient behavior in approving the issuance of the survey that Dr. Mextorf expressly forbade her to send. (Admin. Exh. 38).
33. Kline drafted a seven-page response to Dr. Mextorf's October 15th evaluation. (Kline Exh. 5).
34. On October 20, 2004, the Administration issued a Statement of Charges alleging, *inter alia*, that, as elementary school principal, Kline engaged in conduct that constitutes I) persistent negligence in the performance of her duties; II) persistent insubordination; and III) unprofessional behavior. (Admin. Exh. 40a).
35. Various e-mails drafted by Kline lend support to the charges against her, namely those charges relating to her inability to establish a

cooperative educational environment, her lack of confidentiality and her poor judgment. (Admin. Exhs. 1-12).

36. In an e-mail exchanged with District employees in November 2003, Kline questioned whether one teacher could read, referred to another as a "Loser" and referred to the high school principal as a "dodo head." (N.T. 11/8/04 at pp. 25-32; Admin. Exhs. 3-6).
37. In her testimony, Kline admitted that some of the e-mails that she drafted and shared with District employees were inappropriate, unprofessional and disparaging in nature. (N.T. 11/30/04 at pp. 22, 30, 31, 32).
38. In another e-mail exchanged with District employees, Kline referred to those with whom she worked as being "a real pain in the ass." (N.T. 11/8/04 at p. 33; Admin. Exh. 7).
39. Kline admitted that referring to fellow workers as being a pain in the ass in an e-mail to District employees was inappropriate and unprofessional. (N.T. 11/30/04 at p. 35).
40. In an e-mail exchanged with District staff in December 2003, Kline referred to a PTO meeting as "dumb...er" and a parent as a "stupid lady" and an "idiotic mother." (N.T. 11/8/04 at pp. 37-38; Admin. Exh. 8).
41. Kline admitted that the contents of Administration Exhibit 8 were disparaging of the parent involved. (N.T. 11/30/04 at p. 36).
42. Kline often exercised poor judgment in the performance of her duties, including making a mockery of the District's vision, instructing staff to listen to administrators and then do as they pleased, violating an explicit directive from Dr. Mextorf and using the school's e-mail system to write and share disparaging e-mails about staff, students and parents. (N.T. 11/8/04 at pp. 81-81, 88-89, 105-107, 256-257; N.T.

11/30/04 at pp. 170-171, 178-183; Admin. Exhs. 1-12, 34; Kline Exh. 11).

43. Hearings were held on the matter before the Board on November 8, November 9 and November 30, 2004.
44. The Board unanimously voted in public session to terminate Kline's employment with the LTSD. The Board issued a written decision dated December 10, 2004.
45. Kline filed a Petition For Review with the Secretary of Education appealing the Board's decision.

STANDARD OF REVIEW

In addressing Kline's appeal, the Secretary has the authority under Section 1131 of the Public School Code, 24 P.S. § 11-1131, to review the case de novo. Belasco v. Board of Public Education of School District of Pittsburgh, 510 Pa. 504, 513, 510 A.2d 337, 343 (1986). The Secretary reviews the official record of the hearing before the school board, takes additional testimony if [s]he deems it advisable, and enters an order as [s]he deems just and proper. Id., 510 Pa. at 512, 510 A.2d at 340. A professional employee who has been aggrieved by the board's action is entitled to a neutral fact-finder at some stage in the proceeding. "[T]he Secretary, as a neutral finder of facts, may not act arbitrarily or capriciously." Id., 510 Pa. at 516, 510 A.2d at 343.

ISSUES PRESENTED

In her Petition for Review, Kline presents twelve enumerated issues for the Secretary's consideration. Kline's twelve issues can be condensed into the following two: 1) whether Kline was denied due process under the law; and 2) whether the Board presented sufficient evidence to support Kline's termination.

DISCUSSION

I. Due Process

In support of her due process claims, Kline first argues that Dr. Mextorf, the Superintendent, exerted inappropriate pressure upon school personnel to testify against her and, second, that he engaged in improper communications with Board members throughout the hearing. (Brief for Appellant at pp. 29-32).

With respect to the first allegation, Kline argues that prior to the hearing, Dr. Mextorf held no less than three meetings with the elementary teachers in which he urged teachers to support the Administration in its efforts to terminate Kline. (Petition at ¶ 14; Brief for Appellant at pp. 30-31). The Administration concedes that three gatherings of some sort were held prior to the start of the hearings, but vehemently denies that Dr. Mextorf placed any pressure on staff to testify. The Administration explained the purpose of each gathering. The first was held to inform staff that Kline would no longer be principal of Schick Elementary. The purpose of the second meeting was to address concerns that emerged after the publication of a story in the newspaper regarding Kline's employment. The third meeting was held to inform staff that their testimony would not be subpoenaed but that they were encouraged to testify if they had relevant facts. (Answer at ¶ 14; N.T. 11/30/04 at pp. 164-166).

The record is devoid of evidence supporting Kline's assertion that Dr. Mextorf placed inappropriate pressure on staff to testify. A careful examination of the record lends support to the opposite conclusion: that staff voluntarily came forward to share relevant facts with the Board. Several LTSD personnel testified on behalf of the Administration, including Aegina Leidhecker, Lawrence Nevel, Cindy Schuyler, Jennifer Cooley and Kristin Herman. The testimony of the District personnel is compelling in its own right, and no evidence was presented by Kline to support a conclusion that the testimony was obligatory or coerced in any way. (N.T. 11/8/04 at pp. 203-285; N.T. 11/30/04 at pp. 166-191, 200-208).

Even assuming, for Kline's benefit, that Dr. Mextorf exuded pressure on LTSD personnel to testify - an assumption that the record clearly does not support - we cannot conclude that the testimony, even if conveyed reluctantly, was disingenuous. Nothing in the record supports the assertion that Leidhecker, Nevel, Schuyler, Cooley and Herman were less than forthright in their depiction of events.

In furtherance of the notion that Dr. Mextorf in some way polluted the testimony of witnesses, Kline asserts that no staff testified on her behalf due to the fear that the Administration would retaliate against them. (Brief for Appellant at pp. 31-32). This fear, she believes, culminated from one or all of the three pre-hearing gatherings. Kline's argument is without merit. Although Kline's observation that not one teacher, secretary or staff member stepped forward to testify on her behalf is noteworthy, it does not suggest that the Administration employed intimidation tactics to prevent witnesses from supporting Kline. Rather, it signifies that Kline did not have support among the staff at LTSD. This conclusion is bolstered by the fact that Kline subpoenaed several staff members to testify but chose not to call any of them. See O'Rourke v. Rao, 411 Pa. Super. 609, 602 A.2d 362 (1992). Without the opportunity to examine the testimony of these witnesses, it certainly cannot be concluded that they supported Kline. Therefore, the Secretary rejects Kline's assertion that Dr. Mextorf unduly influenced staff of LTSD.

Kline also alleges that Dr. Mextorf engaged in improper communication with Board members behind closed doors during the course of the hearing. (Brief for Appellant at pp. 29-30). The hearings were held at the LTSD High School library. According to Kline, refreshments were available in a back room adjacent to the library; and, during breaks, Dr. Mextorf, school board members and the District's Solicitor entered the back room. Kline asserts that any conversations between Dr. Mextorf and the members of the Board in the back room constitute ex parte communications in violation of her due process rights (Brief for Appellant at p. 29).

The problem with this argument is that Kline put forth no evidence that would support a finding that ex parte communications took place between Dr. Mextorf and the Board. Quite to the contrary, the testimony from the proceeding below demonstrates that no ex parte communications took place. At the close of the hearings, the Board allowed Kline to question Dr. Mextorf regarding his actions and conversations with the Board during the breaks. (N.T. 11/30/04 at pp. 160-166). When questioned, Dr. Mextorf denied engaging in any conversations with Board members about the hearing, and the Secretary finds this testimony to be credible. (N.T. 11/30/04 at p. 160). Kline was not able to present evidence to the contrary. Therefore, the Secretary must reject the assertion that Dr. Mextorf engaged in improper communication with Board members at any point throughout the proceedings.

II. Sufficient Evidence

Kline was presented with a Statement of Charges dated October 20, 2004, which groups the allegations against her into three categories: I) persistent negligence; II) persistent insubordination; and III) unprofessional behavior. In support of the allegation that Kline's actions constitute persistent negligence, the Administration alleged that she failed to satisfactorily address deficiencies set forth in the corrective action plan dated June 17, 2004 ("June Action Plan"), failed to establish a cooperative educational environment with elementary school parents and failed to establish a cooperative educational environment with elementary school teachers.

With respect to the charge of persistent insubordination, the Administration again set forth three specific acts, namely that Kline refused to comply with a directive from Dr. Mextorf regarding a survey sent home with students; that she refused to comply with a directive to establish a lunchtime recess procedure, resulting in confusion among students, parents and teachers; and that she refused to comply with a directive regarding the establishment of a morning drop-off procedure for students,

resulting in confusion among students, parents, and teachers and creating safety concerns.

The last charge set forth in the Statement of Charges relates to unprofessional behavior. In support of this charge, the Administration alleges that Kline directed individuals to perform administrative duties despite repeated directives from the Superintendent to refrain from doing so and, lastly, that Kline told administrative personnel that she would listen without comment to directives from the Superintendent and then do as she pleased.

Kline's dismissal was pursuant to Section 11-1122 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 . . . (emphasis added).

A professional school employee, such as Kline, may only be dismissed for the reasons set forth in § 11-1122 of the Public School Code. 24 P.S. §11-1122; Foderaro v. School District of Philadelphia, 109 Pa. Cmwlt. 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. Cmwlt. 1995). In order to uphold Kline's dismissal, only one of these charges must be established. Horton v. Jefferson County-DuBois Area Vocational Technical School, 157 Pa. Cmwlt. 424, 630 A.2d 481 (1993).

The charges against Kline are headed as persistent negligence, persistent insubordination and unprofessional behavior. In her Brief, Kline correctly notes that two of the three charges, namely "persistent insubordination" and "unprofessional

behavior," are not expressly set forth in section 11-1122. (Brief for Appellant at pp. 20 and 23). Therefore, Kline urges the Secretary to reverse her termination based on the argument that these two charges are invalid causes for termination.

This argument is rejected for two reasons. First, the charge of persistent negligence is a valid statutory cause for dismissal and is expressly set forth in the Statement of Charges. Because the Statement of Charges refers to at least one valid statutory cause for dismissal, the statutory and constitutional procedural requirements of the law have been satisfied. See Lucciola v. Commonwealth of Pennsylvania, Secretary of Education, 25 Pa. Cmwlth. 419, 360 A.2d 310 (1976); West Mahonoy Twp. School District v. Kelly, 156 Pa. Cuperior Ct. 601, 41 A.2d 344 (1945); Batrus' Appeal, 148 Pa. Cuperior Ct. 587, 26 A.2d 121 (1942).

Second, the written charges recite three instances of disobedient behavior beneath the heading of "persistent insubordination" and, likewise, recite two incidents of misconduct beneath the heading of "unprofessional behavior." Given the specificity with which each general heading was elaborated, the Statement of Charges sufficiently informed Kline that her proposed dismissal was based on "persistent negligence." See Lucciola, 25 Pa. Cmwlth. 419, 360 A.2d 310 (holding that the essence of the charges sufficiently informed appellant that his proposed dismissal was based on "persistent and willful violation of the school laws," even though the charges failed to explicitly cite such statutory language.)

To summarize, the allegations that are set forth in the Statement of Charges under the headings "persistent insubordination" and "unprofessional behavior" fall within the scope of the charge "persistent negligence."² The Secretary finds that there is sufficient evidence to support such a charge.

² The Administration proposes in its Brief that the allegations set forth in the Statement of Charges could constitute both "persistent negligence" and "persistent and willful failure to comply with school laws. It is not uncommon that conduct that constitutes a specific ground for dismissal may also establish the basis for

Persistent Negligence

Negligence is an omission to act in violation of a duty. Bradley v. Board of Public Education of School District of Pittsburgh, TTA 9-86; Harrison v. Capital Area Intermediate Unit, TTA 18-82, aff'd, 84 Pa. Commw. 344, 479 A.2d 62 (1984).

Negligence may also be a failure to exercise the degree of care that a reasonable person would exercise under the circumstances. Yanofsky v. State Horse Racing Commission, 113 Pa. Commw. 323, 537 A.2d 92 (1988). Persistent negligence requires that the acts occur either as a series of individual events, or as one incident carried on for a substantial period of time. Lucciola v. Secretary of Education, 25 Pa. Commw. 419, 360 A.2d 310 (1976).

The evidence in this case establishes that Kline had an explicit and an implied duty to create a cooperative educational environment by maintaining confidentiality, engaging in effective communication and by fostering sound relationships with parents and teachers. Kline failed to do this when she implemented significant procedural changes without adequately informing parents, threatened to disband the PTO, mocked the District vision and shared disparaging e-mail exchanges about teachers, parents and students with District personnel. Further, Kline failed to fully address the deficiencies set forth in both the April and June Action Plans by neglecting to resolve the lunchroom/coat issue as instructed. Lastly, the Administration established through sufficient evidence that Kline violated Administrative directives that conflicted with her agenda.

1. Failure to Create a Cooperative Educational Environment

An essential component to being a successful educator or administrator is the ability to create a positive and healthy educational environment. See Lenker v. East Pennsboro School District, TTA No. 10-90. This type of environment can be fostered

termination under one or more other specified grounds. The Secretary finds that the allegations against Kline fit best within the scope of the charge "persistent negligence."

through the cultivation of strong, positive relationships with teachers and parents. In the case at hand, Kline failed to create a positive, healthy educational environment as evidenced by the testimony of teachers and parents as well as Kline's e-mail exchanges, which contained disparaging comments about teachers, administrators and parents.

Communication Gap

The first indicator that Kline was failing to effectively maintain a cooperative educational environment came as a result of several procedural changes that she implemented in the elementary. The noteworthy changes that Kline implemented in her first few weeks as principal were 1) enforcing a policy that discouraged parents from bringing forgotten items to school, 2) significantly altering the morning recess procedure, and 3) altering the lunch recess routine. (N.T. 11/8/04 at pp. 15-16).

Although the details of each change are not relevant to the determination of whether Kline acted in a negligent manner, some elaboration is necessary for the reader's understanding. With respect to the policy on forgotten items, Kline testified that she implemented the stricter policy in order to encourage students to better prepare for class. She defended the tougher policy by pointing out that the former one enabled parents to bring items directly to the classroom, which resulted in unnecessary disruptions in instructional time. (N.T. 11/9/04 at pp. 185-186). Upon review, it appears that Kline's new policy was sensible; however, the testimony from Dr. Mextrof as well as several parents establishes that the new policy was not effectively communicated to parents, who viewed the change as limiting their access to the school. (N.T. 11/8/04 at pp. 61-62; N.T. 11/9/04 at pp. 20-21, 65-67).

The next change related to the morning recess. Dr. Mextorf eliminated morning recess for fifth graders in order to increase classroom instructional time. The effect of this change was that fifth grade teachers no longer had the "free time" that they previously enjoyed while their students were at recess. (N.T. 11/8/04 at pp. 56-

60). Kline viewed this as an inequity, and her solution was to eliminate morning recess for all grades so that each teacher would equally suffer from the loss of free time. Again, parents were not informed as to why this change occurred and some were under the impression that it was a form of punishment. (N.T. 11/8/04 at p. 60; N.T. 11/9/04 at pp. 28-29, 62, 72).

The last noteworthy change led to the infamous “lunchroom/coat issue,” which caused much consternation amongst parents. The prior policy allowed students to walk unattended from the lunchroom to their classrooms to retrieve their coats for use in the schoolyard. Kline was concerned that students would inevitably get into trouble if allowed to roam the hallways unattended to retrieve their coats. Therefore, she began to require that students bring their coats to lunch with them. This way, the students could go straight from the lunchroom into the schoolyard for recess. (N.T. 11/8/04 at pp. 63-64; N.T. 11/9/04 at pp. 206-214).

Underestimating the cumulative impact that these numerous changes would have on the various stakeholders, Kline failed to keep parents adequately informed. Consequently, Dr. Mextorf began receiving complaints from parents who were confused and upset about the nature and extent of changes that Kline had implemented in such a short amount of time as principal. By January of 2004, the Board began receiving letters complaining of Kline’s performance as principal. (N.T. 11/8/04 at p. 47; Admin. Exh. 13-19).

In response to information gathered from various sources, including conversations with parents and teachers as well as the complaint letters received by the Board, Dr. Mextorf created an action plan that he issued to Kline in April of 2004 (“April Action Plan”). (N.T. 11/8/04 at pp. 53-54; Admin. Exh. 20; Kline Exh. 2). The April Action Plan set forth general concerns about Kline’s performance, namely that parents felt unwelcome at the elementary school, that Kline exhibited poor

communication skills and that she was thought to be inaccessible. (N.T. 11/8/04 at p. 55; Admin. Exh. 20; Kline Exh. 2).

In addition to general concerns, the Plan addressed five specific problems, including the morning routine, the procedure for forgotten items, morning recess, lunch procedures and access protocol. (Admin. Exh. 20; Kline Exh. 2).

Kline was instructed to remediate the problems by building sound internal and external relationships, improving the perception of her accessibility among parents, being visible and maintaining professionalism. (Admin. Exh. 20; Kline Exh. 2). Further, the Plan directed Kline to improve her professionalism by altering her demeanor to portray a sense of calm and to maintain confidential information by abiding by the following rule of thumb: "unless you are comfortable with everyone knowing what you are saying, don't say it to anyone." (Admin. Exh. 20; Kline Exh. 2).

Kline drafted a response to the April Action Plan that was defensive in nature and failed to recognize the Administration's dissatisfaction with her performance as elementary school principal. In Kline's response, she failed to adequately address important concerns raised in the April Action Plan, namely those concerns relating to the communication gap between herself and parents, her need to improve both internal and external relationships and her lack of professionalism. (N.T. 11/8/04 at p. 75-76; Admin. Exh. 20 – 21; Kline Exh. 3).

A disturbing problem with Kline's leadership style, as evidenced by the complaint letters and the testimony of parents and District staff, was her inability to smoothly and effectively implement change, while simultaneously maintaining a solid relationship with parents and teachers. Simply put, the problem was not the nature of the changes; rather it was the manner in which the changes were implemented. The result was an ever-growing concern among parents that the new principal was not in tune with the community and was not supportive of parental involvement. (N.T. 11/8/04 at pp. 16, 34-36, 44-45, 52-54, 62, 69-73).

Threatening to Disband the PTO

Kline struggled in her efforts to build a good relationship with the Parent Teacher Organization. The testimony of several parents who attended PTO meetings establishes that Kline did not exercise prudent judgment in her dealings with the organization. Kline discouraged parents from raising issues at the meetings, and instead suggested that issues be presented at informal coffee gatherings hosted by Kline. (N.T. 11/9/04 at pp. 34, 64). Further, parents testified that Kline threatened to disband the organization if its members did not strictly adhere to an agenda. (N.T. 11/9/04 at p. 34). Additional testimony from the parents establishes that Kline made disparaging remarks about the school and its teachers by, for example, saying that the school was a mess before she began her tenure as principal. (N.T. 11/9/04 at pp. 35-36). Kline's dismal attempt at interacting with the PTO exemplifies her failure to establish a cooperative educational environment with parents.

Mocking the District Vision

After the issuance of the April Action Plan, Kline had ample opportunity to remediate the problems set forth therein. However, rather than focusing her attention on improving her communication skills and working on fostering a positive educational environment, Kline continued to exercise bad judgment in the performance of her administrative duties. For example, Kline contributed to a drawing that mocked the District's vision. In the drawing, Dr. Mextorf was portrayed standing on the tip of an iceberg³ while members of the faculty were pictured jumping off the iceberg and swimming toward surrounding districts. Dr. Mextorf learned that Kline had created this caricature and immediately confronted her about it. Kline first denied any

³ Dr. Mextorf, as Superintendent of LTSD, developed a symbol to represent the District's vision. The symbol was that of an iceberg, with the tip representing the visible aspect of the District and the submerged part representing the philosophical underpinnings of the District's holistic approach to education. (N.T. 11/8/04 at pp. 81-82).

involvement; however, she later admitted that she had participated in the drawing. (N.T. 11/8/04 at p. 75-76).

Kline argues that the drawing came out of frustration and was not intended to be offensive. (N.T. 11/9/04 at p. 192). However, it is clear that such behavior from an elementary school principal is unacceptable. It is one thing to create a humorous doodle about one's workplace; however, it is quite another for an authority figure, like Kline, to create a disparaging caricature of her boss and share it with subordinates. Frankly, it is disturbing to think that a principal would create and publicize such a negative depiction of the District Superintendent.

Accordingly, Kline received an unsatisfactory rating for her performance as elementary school principal for the 2003-2004 school year. (N.T. 11/8/04 at p. 100; Admin. Exh. 29). As a result of the unsatisfactory rating as well as Kline's continued poor performance, a second Corrective Action Plan ("June Action Plan") was prepared by Dr. Mextorf for Kline, as more fully discussed herein. (N.T. 11/8/04 at p. 102; Admin. Exh. 32).

Disparaging E-Mails

The e-mail exchanges presented by the Administration in Exhibits 1-12 and 24 provide further support for the conclusion that Kline was deficient in her duty to foster a cooperative educational environment.

As the process to terminate Kline began, the Administration discovered startling evidence in e-mails that Kline had sent, the contents of which support several of the charges set forth in the Statement of Charges, including the charges relating to confidentiality and Kline's inability to establish a cooperative educational environment with both parents and teacher. In her Petition for Review as well as in her Brief, Kline argues that the Board erred in admitting the e-mails into evidence over her hearsay objections because the Administration failed to substantiate the e-mails with other evidence. (Petition at ¶¶ 11, 19-20; Brief for Appellant at p. 29). Further, Kline

asserts that the e-mails did not form the basis for the decision to terminate her, and, therefore are not relevant to the current proceedings.

The starting point in evaluating the admissibility of the e-mails is recognizing that the rules governing the admission of evidence in administrative proceedings are more relaxed than those governing the admission of evidence in jury trials. Murphy v. Department of Public Welfare, 85 Pa. Commonwealth Ct. 23, 480 A.2d 382 (1984) (stating that evidence which is relevant and of reasonable probative value may be received). The e-mails are not inadmissible hearsay as Kline, herself, provided substantiating evidence in that she admitted to drafting and sending them. Throughout her testimony, Kline attempted to justify her reasons for drafting the e-mails. (N.T. 11/9/04 at pp. 172-173; N.T. 11/30/04 at pp. 6, 16, 19-23, 28-35, 38-43).

Thus, the only issue is whether the e-mails are relevant. In this case, the e-mails support the allegation that Kline lacked confidentiality and that she failed to create a cooperative educational environment; therefore, the e-mails are relevant to the case.

There were a total of thirteen disparaging e-mails presented by the Administration in which Kline made demeaning remarks about coworkers and parents to other District employees.⁴ The content of the e-mails ranged from being tactless to being outright disrespectful toward the Administration. Kline went so far as to make light of Dr. Mextorf's directive to be more accessible by stating:

"I waited at the F[our] M[ile] school today until 5:00 PM. I even opened the office door at 4:30 and yelled down the hall, 'I'M ACCESSIBLE FOLKS!!!' But nobody came. So I figured they must be waiting for me at Becht. I got in the car and flew down the road. I opened the door at Becht and yelled, 'OK EVERYBODY, I'M ACCESSIBLE NOW. COME ON IN!!!' But still, nobody came."

(Admin. Exh. 1).

⁴ Kline drafted the e-mails to one or all of the following District employees: Cheri King (Dr. Mextorf's secretary), Erica Bradley (District secretary) and Debra Kuzio (District secretary).

Clearly, Kline's sarcasm in relation to Dr. Mextorf's directive can be construed as, at the very least, disrespectful.

In several other e-mails, Kline openly disparaged and demeaned teachers behind their backs. Particularly, Kline, in a sarcastic manner, questioned a fellow teacher's ability to read and teach, labeled a fellow co-worker as a "Loser" and described the high school principal as a "dodo head." (Admin. Exhs. 3, 3a, 4, 5). Perhaps the most offensive of all the e-mails is the one in which she referred to her coworkers as "a real pain in the ass." (Admin. Exh. 7).

Kline's inappropriate and sarcastic communications with District personnel about other staff members sheds light on why she failed to establish a cooperative educational environment with parents and teachers. (Admin. Exh 1-12, 24). The extreme nature of her unprofessional e-mail exchanges with District staff speaks volumes of Kline's leadership style and demeanor. It goes to reason that the sarcastic and demeaning undertones prevalent in Kline's e-mail exchanges were undoubtedly visible in other aspects of her interaction with parents and teachers.

2. **Failure to Comply with the June Action Plan**

The June Action Plan repeated several general themes that were first addressed in the April Action Plan, including maintaining confidentiality with all internal and external constituents as well as conveying a professional demeanor. (Admin. Exh. 20, 32). Further, the June Action Plan addressed specific problems that remained unresolved since the April Action Plan, namely the lunchroom/coat issue. (Admin. Exh. 20, 32). The issue of whether children should bring coats into the lunchroom is certainly something that the principal should have been able to resolve in a timely manner. (N.T. 11/8/04 at pp. 63-64, 66). The record establishes that Kline was given several months to resolve this rather routine problem. Instead, she allowed the matter to fester to the point that the Superintendent was forced to get involved. As of October 2004, the issue remained unresolved and, by Kline's own admission, it

remained a work in progress. (Admin. Exh. 20, 32). Kline clearly failed to remedy the problem as mandated by the June Action Plan.

Notwithstanding the April and June Action Plans, Kline argues that she was sent mixed messages from the Administration about her performance. (Brief for Appellant at p. 16). She cites to Dr. Mextorf's willingness to vouch for her performance on PDE 338 P, which is the form that an applicant must submit to the Department in order to obtain a permanent elementary principal certificate. In completing the form on Kline's behalf, Dr. Mextorf verified, among other things, that Kline had received a satisfactory rating on an evaluation of basic skills, knowledge, professional knowledge and practice and subject matter knowledge.⁵ (Kline Exh. 1). Kline asserts that by vouching for her performance, Dr. Mextorf sent her mixed messages. However, the more reasonable perception of Dr. Mextorf's action is that he was making an effort to help Kline. (N.T. 11/8/04 at p. 104). He could easily have refused to verify her performance and allowed her certification to lapse. Instead, he evidenced his desire to see Kline succeed as elementary school principal. Therefore, the Secretary concludes that Kline was fully aware that the Administration was frustrated with her performance and expected improvement.

3. **Violation of an Explicit Administrative Directive**

On October 5, 2004, Kline sent an e-mail to Dr. Mextorf briefing him on a Parent Teacher Organization (PTO) meeting that had occurred during the previous evening. (N.T. 11/8/04 at pp. 105-107; Admin. Exh. 34, Kline Exh. 11). The main point of the October 5th e-mail was to obtain Dr. Mextorf's feedback on the lunchroom/coat issue. (N.T. 11/8/04 at pp. 105-107; Admin. Exh. 34, Kline Exh. 11).

Parents expressed different views over this issue and, therefore, Kline suggested in her e-mail to Dr. Mextorf that a survey be taken to gather the consensus

⁵ The Secretary will not address the impropriety, if any, of Dr. Mextorf's decision to verify Kline's satisfactory performance on PDE 338 P.

of parents. (N.T. 11/8/04 at pp. 105-107; Admin. Exh. 34, Kline Exh. 11). In response to Kline's suggestion to send surveys to parents, Dr. Mextorf replied in an e-mail message to Kline stating simply, "No surveys. We'll talk." (N.T. 11/8/04 at p. 106; Admin. Exh. 34, Kline Exh. 11). In clear and concise terms, Dr. Mextorf forbade Kline from sending the survey and instructed her to meet with him to discuss.

In violation of Dr. Mextorf's clear directive, Kline authorized a PTO member to send the survey to parents. (N.T. 11/8/04 at p. 102; Admin. Exh. 32). Kline's excuse for sending the survey is that she simply forgot about Dr. Mextorf's order. She blames a high volume of e-mail correspondence for her lapse in memory. (N.T. 11/9/04 at pp. 207-208). This excuse belies reason. Kline had struggled with the lunchroom/coat issue since April of 2004. To say the least, it was a hot topic and one not likely to fade in her memory. Further, her October 5th e-mail to Dr. Mextorf was lengthy and detailed. (Admin. Exh. 34). That she simply forgot its existence is not likely. Above all else, Kline was aware that the Administration was displeased with her collaborative decision making skills, as evidenced in the June Action Plan in which Dr. Mextorf gave her the following directive:

In an effort to guide you through the collaborative decision making process, I am directing you to discuss your plan of action for collaborative decision-making with me prior to involving stakeholders. Additionally, I am directing you to include me as a member of the team when you are scheduling collaborative decision-making processes.

(Admin. Exh. 32).

In no uncertain terms, Kline was required to seek Dr. Mextorf's input prior to sending the survey. Her failure to do so constitutes a violation of the directives set forth in the June Action Plan as well as Dr. Mextorf's explicit directive instructing Kline to speak with him prior to sending any surveys.

4. **Endorsing Insubordination**

The survey issue exemplifies Kline's willingness to disregard Administrative directives that conflict with her desired course of action. Another example of Kline's propensity to place her own agenda above that of the Administration's is evidenced in her comments to two teachers, Cindy Schuyler and Kristin Herman. Ms. Schuyler and Ms. Herman testified that Kline instructed them to listen to Dr. Mextorf without comment, and then do as they pleased. (N.T. 11/30/04 at pp. 170-171, 178-183).

Kline explains that she instructed Ms. Schuyler and Ms. Herman to engage in active listening, where the listener mirrors the body language of the speaker. Kline argues that her instructions to mirror Dr. Mextorf were not insubordinate in nature; rather, she was encouraging the use of an effective listening strategy. (N.T. 11/30/04 at p. 224). However, through the testimony of Ms. Schuyler and Ms. Herman, the record demonstrates that Kline did not intend to follow-through with the recommendations and/or directives of Dr. Mextorf. She clearly suggested to District personnel that they listen quietly to Dr. Mextorf and then figure out, on their own, which course of action should be taken. (N.T. 11/30/04 at pp. 170-171, 178-183). Her behavior in this regard demonstrates her inclination to disobey Administrative directives when they conflict with her own agenda.

Conclusion

Kline engaged in persistent negligence by failing to create a cooperative educational environment, failing to address all the deficiencies set forth in the June Action Plan, violating a directive from the Superintendent and by instructing staff that they should listen without comment to Administrative directives and then do as they pleased.

Accordingly, we enter the following:

REVISED ORDER

AND NOW, this 13th day of September, 2005, it is hereby ordered that the Board of School Directors of the Loyalsock Township School District met its burden of establishing that the actions of Faith Kline constitute persistent negligence. The decision of the Board of School Directors in terminating Faith Kline is affirmed.

_____/s/_____
Gerald L. Zahorchak, D.Ed.
Acting Secretary
Pennsylvania Department of Education

Date Mailed: September 13, 2005