

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

<b>MR. ANDREW SAMUELSEN,</b>	:	
<b>Appellant</b>	:	
	:	
v.	:	<b>Teacher Tenure Appeal</b>
	:	<b>No. 03-12</b>
<b>HANOVER PUBLIC SCHOOL</b>	:	
<b>DISTRICT,</b>	:	
<b>Appellee</b>	:	

**OPINION AND ORDER**

Mr. Andrew Samuelsen (“Mr. Samuelsen”) appeals to the Secretary of Education (“Secretary”) from the decision of the Board of School Directors (“Board”) of the Hanover Public School District (“District”) demoting him from High School Principal to Middle School Language Arts Teacher.

**FINDINGS OF FACT**

1. Mr. Samuelsen is a tenured professional employee of the District. (Notes of Testimony, page 49).<sup>1</sup>
2. Mr. Samuelsen presently serves as a Middle School Language Arts Teacher at the District. (Petition for Appeal, at 11).
3. Mr. Samuelsen holds a Bachelor of Arts degree in English from Messiah College and a Master’s degree in Teaching and Curriculum from Penn State University. Mr. Samuelson holds an Instructional Level II certificate in English 7 to 12 and an administrative certificate. (N.T. 120).

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<sup>1</sup> Hereinafter, references to testimony from the July 31, 2013, and August 7, 2013, hearings before the Board of School Directors of the Hanover Public School District will be denoted as “N.T. \_\_\_.”

4. Mr. Samuelsen served the District as High School Principal from January 26, 2009, to August 27, 2012. (Stipulation Number 5).<sup>2</sup>

5. During the time when he served as High School Principal, Mr. Samuelsen reported to Mr. Richard Musselman (“Mr. Musselman”), District’s Assistant Superintendent from January 2010 to July 2011. (N.T. 326). Following Mr. Musselman’s departure to become the Superintendent of another district in July 2011, Mr. Samuelsen reported to Dr. Pamela Smith, Middle School Principal who also served as Director of Secondary Education (“Dr. Smith), and ultimately to Dr. Alan E. Moyer, Ed.D., District Superintendent (“Dr. Moyer”). (N.T. 22; Stipulation 6).

6. Mr. Samuelsen received a positive evaluation for the 2009 – 2010 school year, which was completed by Dr. Moyer and Mr. Musselman. (Samuelsen Exh. 8).<sup>3</sup> Mr. Samuelsen received a rating of 30 (out of a maximum of 30) with respect to “Administrative Responsibilities” and 31 (out of a maximum of 35) with respect to “General Skills, Attitude, and Ethical Standards.”

- Dr. Moyer and Mr. Musselman noted “Strengths” as follows:
  - Strong teamwork with Eric [the Assistant High School Principal]
  - Much improved communication from our High School
  - Not afraid to make unpopular decisions
  - You continue to win over key staff members that were not your advocates early in the year
  - High visibility and genuine interest in co- and extra-curriculars
- Dr. Moyer and Mr. Musselman also noted “Growth Areas” as follows:
  - Develop positive relations with student leadership organizations i.e.: student council, key club, etc.

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<sup>2</sup> Hereinafter, references to the agreed upon stipulations in the Matter of Andrew Samuelsen before the Board of School Directors of the Hanover Public School District will be denoted as “Stipulation \_\_\_\_.”

<sup>3</sup> Exh. refers to Exhibits entered into evidence at the hearings held by the Hanover Public School District Board of Directors on July 31, 2012, and August 7, 2012.

- Walk throughs
- Continue developing relationships with district leadership team
- Continue to build leadership capacity among staff and especially the teacher leaders such as department heads
- Continue to develop more collaborative decision making . . . especially on items and issues you feel are negotiable
- Let's really team up on the music department with Clay, Deb, & Chris making adjustments

7. Dr. Moyer and Mr. Musselman provided Mr. Samuelson a satisfactory, but less favorable, evaluation for the 2010 – 2011 school year. (Stipulated Exh. B). Mr. Samuelson received a rating of 18 (out of a maximum of 30) with respect to “Administrative Responsibilities” and 25 (out of a maximum of 35) with respect to “General Skills, Attitude, and Ethical Standards.”

- Dr. Moyer and Mr. Musselman commended Mr. Samuelson for the following:
  - Building communications such as the monthly newsletter, appreciation letters, PAC council meetings, twitter are much improved
  - Teacher accountability for performance – PDE 5501's, LFS evening though it requires more work
  - LINK crew monitoring program a success
  - Morning collaboration time – Language Arts and Math
  - Technology Tuesdays were excellent!
  - Represents the district well at special events
  - Budget options for family and consumer science
- Dr. Moyer and Mr. Musselman also noted items for Mr. Samuelson to consider when developing his “focus areas/goals for 2011-2012:
  - Disconnect between guidance staff and administrators (Deb and Kerry seemed confused at times regarding expectations you and Eric have for them)
  - Ownership of HS programs such as Keystone training, cyber school (Jen Gomulka, Bo Koishal, Gene Kraus) LIU no building administrator
  - Careful not to come off as being perceived as argumentative
  - Fine to be passionate but “effective compromise” is a behavior to aspire to
  - Prioritize calls of certain personnel moves
  - Budget recommendations and then not sure
  - Minimize email episodes

- When someone disagrees everyone becomes “crazy”, “ignorant”, or “bizarre”
- Down one administrator and one Middle School Teacher
- Prep for transition of leadership – Pam and Tom
- Lesson the cost of “effective compromise”
- Need creative ideas to make cyber school happen

8. Mr. Samuelson drafted a rebuttal memo in response to his 2010 – 2011 evaluation, which Dr. Moyer attached to the evaluation upon receipt.

9. In October 2011, the Hanover Education Association (HEA), the bargaining representative for teachers, contacted the District Administration. (N.T. 199 – 200, 563). The HEA voiced complaints and concerns about Mr. Samuelson, including allegations that a “hostile work environment” existed at the High School. (Stipulated Exh. E; Stipulated Exh. M, Anecdotal Record 5;<sup>4</sup> N.T. 201).

10. As a result of the HEA’s concerns and complaints, District Administration conducted an investigation, which included interviewing a number of teachers. (Stipulated Exh. E; N.T. 202 – 203; 539).

11. Mr. Samuelson met with Dr. Moyer, Dr. Smith, and Mrs. Bonnie J. Frock, Director of Human Resources (“Mrs. Frock”), on October 21, 2011, to discuss the HEA concerns and complaints. (Stipulation 12; Stipulation 8). At the meeting, Mrs. Frock took notes (Stipulated Exh. C; N.T. 709) and at the end of the meeting, Dr. Moyer reviewed the following recommendations with Mr. Samuelson:

- Sharing at Department Meetings
- Team Sharing at Faculty Meeting
- Redundancy at Faculty Meeting and Department Chair Meeting
- Refrain from derogatory comments about the union
- Development of a service attitude
- How comments are perceived

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<sup>4</sup> Hereinafter, references to anecdotal records contained as part of Stipulated Exh. M, Mr. Samuelson’s unsatisfactory 2011 – 2012 evaluation and demotion recommendation from Dr. Moyer, will be denoted as Stipulated Exh. M, Anec. Rec. \_\_\_\_.

Approachability  
Creating an environment – that we are in this together/teamwork  
Decision making process, collaboration, participatory leadership  
(negotiables/non-negotiables)  
Demonstrate some love, empathy, compassion  
Demonstrate unity with district decisions/loyalty  
Positive relationship building (high school staff and others)  
Supervisory referrals  
Emails – stop

(District Exh. 27).

12. Dr. Moyer, Dr. Smith, and Mrs. Frock met with Mr. Samuelsen on December 22, 2011, and provided him with a letter they had all signed. (Stipulation 14; Stipulated Exh. E; N.T. 205-211). At the meeting, and as also stated in the December 22, 2011 letter, it was conveyed to Mr. Samuelsen that they had concluded that the HEA concerns did not rise to the level of a “hostile work environment.” However, he was told that “many concerns raised by staff are warranted and must be addressed at this time in order to facilitate a more positive and productive working and learning environment whereby staff, students, and administrators are happy to come to work and learn each day.” (Stipulated Exh. E). The December 22, 2012 letter also included the following concerns raised throughout the course of the investigation:

- (1) Working relationships with the High School staff
- (2) Working relationships with the High School building administrators and office team
- (3) Lack of collaborative decision making
- (4) Delegation of administrative tasks to teaching staff
- (5) Staff does not perceive you or your assistant as instructional leaders
- (6) Lack of approachability
- (7) Lack of empathy
- (8) Staff opinions are not valued
- (9) Meetings – redundancy, lack of participatory decision making
- (10) Perceived tone of communications; written, oral, and body language
- (11) Leadership style - top down autocratic rather than the needed transformational leadership style which is required to unite your building and move it forward
- (12) Lack of visibility within your building

13. The December 22, 2011 letter also directed Mr. Samuelson to implement ten (10) strategies as part of an improvement plan, including but not limited to, developing a service attitude with staff to provide them assistance when needed, refraining from derogatory comments, working to create an atmosphere where staff are welcomed and encouraged to participate and share pedagogical information and participating in the Employee Assistance Program (EAP) to fulfill district leadership goals. (Stipulated Exh. E).

14. Although being asked to acknowledge receipt of the December 22, 2011 letter at the conclusion of the December 22, 2011 meeting, and again by Mrs. Frock on January 11, 2012, Mr. Samuelson did not acknowledge receipt of the letter until February 2, 2012. (Stipulated Exh. E; District Exh. 9; N.T. 101-102; 221).

15. On January 31, 2012, Ms. Jennifer Gomulka, a math teacher at the high school ("Ms. Gomulka"), went to Mr. Samuelson's office to obtain his approval on surveys she wished to distribute. After leaving Mr. Samuelson's office, Ms. Gomulka wrote an email expressing that she "felt attacked and belittled" at the way Mr. Samuelson treated her. (Stipulated Exh. F). As a result of the interaction, Dr. Moyer and Mrs. Frock met with Mr. Samuelson on February 2, 2012, about the interaction and "made it very clear that we expected him not to follow up on that issue with Ms. Gomulka . . . that she had brought it to our attention." (N.T. 223).

16. On February 9, 2012, Ms. Gomulka went to Mr. Samuelson's office. She needed his approval to take students to a math competition. (N.T. 735-37). Mr. Samuelson told Ms. Gomulka to schedule an appointment to discuss the issue and that she should bring someone with her. When Ms. Gomulka asked what he meant by saying she should bring someone with her, Mr. Samuelson said that they had a rather unpleasant conversation before and since Ms.

Gomulka was not going to like what he had to say, she should bring representation. (Stipulated Exh. M; Anec. Rec. 11; N.T. 735-37).

17. Dr. Moyer viewed Mr. Samuelson's interaction with Ms. Gomulka on February 9, 2012, as a violation of the instructions given to Mr. Samuelson regarding Ms. Gomulka at the meeting on February 2, 2012, following the first incident. (N.T. 224 – 225). As a result, Mr. Samuelson was suspended, without pay, for five (5) days on February 10, 2012. (Stipulated Exh. G; Stipulation 21).

18. On February 21, 2012, Mr. Samuelson met with Mrs. Frock, Dr. Smith, Dr. Moyer, and Mr. Hershner, Principal of Hanover Street Elementary School ("Mr. Hershner"), who attended the meeting at Mr. Samuelson's request. (Stipulation 24). At this meeting, Mr. Samuelson received and reviewed:

- An unsatisfactory mid-year performance evaluation for the 2011 – 2012 school year that Dr. Moyer and Dr. Smith had completed. (Stipulated Exh. K). Mr. Samuelson received a rating of 12 (out of a maximum of 30) with respect to "Administrative Responsibilities" and 12 (out of a maximum of 35) with respect to "General Skills, Attitude, and Ethical Standards."
- A letter explaining his receipt of the unsatisfactory evaluation. (Stipulated Exh. I). Unlike previous evaluations, this evaluation did not indicate strengths or weaknesses, but the cover letter stated as follows:

The purpose of this communication is to once again convey to you the primary reasons regarding your unsatisfactory performance as High School Principal; more specifically: the fundamental weakness and deficiencies with your leadership and communication style, the lack of collaborative decision making, and your inability to provide adequate instructional leadership. In addition, your complete refusal to acknowledge that these issues exist continues to promote a negative atmosphere indicative of a non-functional and unproductive environment whereby staff members are reluctant to communicate operational and educational issues of concern due to a history of being treated disrespectfully, belittled, or criticized in an unprofessional manner, all of which was documented in the letters December 22, 2011, and February 10, 2012, and were discussed at some length with you on October 21, 2011.

- An updated improvement plan. (Stipulated Exh. J). Mr. Samuelsen did not follow up with the EAP as set forth in the performance improvement plan dated December 22, 2011. (Stipulated Exh. E; Stipulated Exh. J). District Administration substituted a mentoring plan and directed Mr. Samuelsen to work with Mr. Bradley Arnold (“Mr. Arnold”). (Stipulated Exh. J). Mr. Arnold is a retired administrator from the South Western School District and a friend and former colleague of Dr. Moyer. (N.T. 365, 369, 381).

19. Mr. Arnold and Mr. Samuelsen met on eight occasions between March 15, 2012, and May 2, 2012. (Stipulated Exh. L; Stipulation 26; N.T. 376).

20. The District provided Mr. Samuelsen with an additional improvement plan in March 2012 that further outlined specific areas needing improvement. (Stipulated Exh. M., Anec. Rec. 18).

21. Mr. Arnold composed a Mentoring Progress Report after his meetings with Mr. Samuelsen and provided this report to Dr. Moyer. Mr. Arnold began writing the report on March 18, 2012 and updated the report frequently as he met with Mr. Samuelsen over the eight sessions, finishing the report shortly after his last meeting with Mr. Samuelsen on May 2, 2012. (Stipulated Exh. L; N.T. 375).

22. Dr. Moyer, Dr. Smith, Mrs. Frock, and Mr. Hershner reviewed the report with Mr. Samuelsen at a meeting on May 9, 2012. (Stipulated Exh. L; N.T. 219).

23. On July 5, 2012, Dr. Moyer recommended Mr. Samuelsen’s demotion from the position of High School Principal to classroom teacher, pursuant to Section 1151 of the Public School Code (“Code”). (24 P.S. §11-1151; Stipulated Exh. N). A Statement of Charges and Notice of Right to Hearing, signed by the President and Secretary of the Board, was issued on July 5, 2012. (Stipulated Exh. N).

24. On July 23, 2012, Mr. Samuelsen received an unsatisfactory evaluation for the 2011 – 2012 school year. Dr. Moyer completed the 2011 – 2012 evaluation. Mr. Samuelsen

received a rating of 12 (out of a maximum of 30) with respect to “Administrative Responsibilities” and 12 (out of a maximum of 35) with respect to “General Skills, Attitude, and Ethical Standards.” (Stipulated Exh. M).

○ Dr. Moyer noted “Positive Change Items” on the 2011 – 2012 evaluation as follows:

- As a result of the mentoring process, it appears that you have made several changes to the manner in which you organize and run meetings in that you provided collaborative opportunities for participants and provided updated agenda items. However, despite some positive change, deficient areas remain.

○ Dr. Moyer noted “Items of Concern” on the 2011 – 2012 evaluation as follows:

- You continue not to acknowledge the need for positive climate and leadership change within the high school. As a result of these beliefs, you have made little or no discernable efforts to implement the required changes as outlined in your improvement plan. You flatly refuse to believe that problems exist and that without significant change to your leadership style, you will be unable to successfully serve as principal of Hanover High School.
- On many occasions, we have discussed the perceptions of your staff and your belief that their perceptions do not count, and that only your version of truth should be considered.
- Despite evidence to the contrary, you believe that you are very collaborative and that you provide ample opportunities for staff and students to interact with you in a positive manner.

○ In addition, the evaluation contained twenty-five (25) anecdotal records and remarks about Mr. Samuelsen’s performance including, but not limited to, reports that at times his behavior was rude, arrogant and unprofessional, that morale was not good and some reported the environment was toxic and that he was in violation of school policy by providing his user name and passwords to a faculty member to complete a task assigned to him as an administrator.

25. Mr. Samuelsen timely requested a School Board hearing to contest his recommended demotion. (Stipulation 30).

26. The Board scheduled a hearing for July 31, 2012, regarding Mr. Samuelsen’s demotion; the hearing was continued to August 7, 2012.

27. On August 27, 2012, the Board issued an Adjudication, upholding Dr. Moyer's recommendation to demote Mr. Samuelson.

28. On September 25, 2012, Mr. Samuelson appealed his demotion to the Pennsylvania Secretary of Education.

### **STANDARD OF REVIEW**

There is no dispute that Mr. Samuelson was demoted pursuant to Section 1151 of the Pennsylvania School Code of 1949. (24 P.S. § 11-1151). Section 1151 of the Public School Code governs matters related to the demotion of a professional employee and provides that:

[T]here shall be no demotion of any professional employee either in salary or type of position without the consent of the employee, or, if such consent is not received, then such demotion shall be subject to the right to a hearing before the board of school directors.

(*Id.*). In his Petition, Mr. Samuelson alleges that the District arbitrarily and improperly demoted him from the position of High School Principal to the position of Middle School Language Arts Teacher. (Petition for Appeal, at 9).

A school district possesses broad discretion in making personnel and administrative decisions that result in demotions and a school board's decision is presumptively valid. *Bd. of Pub. Educ. of the Sch. Dist. of Pgh. v. Thomas*, 399 A.2d 1148, 1149 (Pa. Cmwlth. 1979). A district's exercise of discretion in a demotion case should stand unless the demoted employee meets the heavy burden of proving the demotion was arbitrary or based on improper considerations. *See Piazza v. Millville Area Sch. Dist.*, 624 A.2d 788, 790 (Pa. Cmwlth. 1993); *Williams v. Abington Sch. Dist.*, 397 A.2d 1282, 1283 (Pa. Cmwlth. 1979). The demotion is invalid only if the demotion is arbitrary or based on improper reasons. *Smith v. Sch. Dist. Of Twp. of Darby*, 130 A.3d 661 (Pa. Cmwlth. 1975). The employee's burden of proving that a

board of school directors acted arbitrarily or upon improper considerations is a “heavy one.”  
*Abington*, 397 A.2d at 1283.

In determining whether the demoted employee satisfied his or her heavy burden of proof, the Secretary is vested with the authority to conduct a *de novo* review of the record regardless of whether the Secretary takes additional testimony or reviews the record of the proceedings of the board of school directors. *Belasco v. Bd. of Pub. Educ. of the Sch. Dist. of Phila.*, 510 A.2d 337 (Pa. Cmwlth. 1986). The Secretary, serving as the ultimate fact finder in appeals involving demotions, must examine the evidence to make his or her own findings based on his or her view of the credibility of the witnesses, the weight of the evidence, and any inferences that may be drawn therefrom. *Belasco*, 510 A.2d at 342; *Forrest Area Sch. Dist. v. Shoup*, 621 A.2d 1121, 1125 (Pa. Cmwlth. 1993). In a demotion case, the principles outlined in *Brownsville Area Sch. Dist. v. Lucostic* 297 A.2d 516 (Pa. Cmwlth. 1972), govern the Secretary’s inquiry. The principles are as follows:

- (1) A Board of School Directors may demote a professional employee in position or salary or both without his or her consent;
- (2) The action of the Board in such case is presumptively valid; and
- (3) The demoted employee contesting the Board’s action has the burden of proving it to be arbitrary, discriminatory, or founded on improper considerations.

(*Id.* at 518).

## DISCUSSION

Mr. Samuelson argues that the action of the District Administration and the Board in demoting him from high school principal to middle school Language Arts teacher was arbitrary, capricious, or based on improper considerations. (Petition for Appeal, ¶ 26). Mr. Samuelson contends his demotion “was retribution by the District for [Mr.] Samuelson’s numerous contentions about adherence to District policy.” (*Id.*, ¶ 23). Mr. Samuelson also argues the Administration’s actions directed at him were arbitrary and capricious, borne by the “Administration’s disparate and inconsistent response to complaints by [Samuelson] as compared to complaints about [Samuelson].” (*Id.*, ¶ 24). As a result, Mr. Samuelson requests that the District:

- Immediately reinstate him to the position of High School principal with full pay and benefits, retroactive to his demotion date of August 27, 2012;
- Immediately compensate him for all back pay, front pay, and other loss of benefits from the time of his demotion on August 27, 2012;
- Pay all reasonable costs of litigation, attorney’s fees, and others costs and expenses associated with this matter; and
- Expunge all records of these allegations and charges from Petitioner’s and Respondent’s records.

(*Id.*, ¶¶ 30-33).

### ***The Board’s Basis For Mr. Samuelson’s Demotion Is Supported By The Evidence.***

The Secretary has held that a district need only explain the reason for the demotion. *Bosak v. Oswayo Valley Sch. Dist.*, TTA No. 6-83. Furthermore, the school district is not required to provide a single, concise statement for the demotion as long as the record contains evidence of a rationale for the demotion. (*Id.*).

The Board relied on the testimony and evidence presented at the hearing in its decision to demote Mr. Samuelson. The Board determined that Mr. Samuelson had “not carried his burden of proving that the reasons for his demotion, as advanced by the District Administration, were

‘arbitrary, capricious or based on discriminatory or improper considerations.’” (Adjudication, at 25). In addition, the Board noted that the evidence and testimony presented by the District Administration clearly established that:

Mr. Samuelson lacks fundamental interpersonal skills and that his autocratic leadership and decision making, tone and style of communication, argumentative nature and unwillingness to compromise, lack of respect for the feelings and perceptions of others, and his adamant resistance to feedback as to all of the above, prevent him from serving as an effective leader of the High School.

(Adjudication, at 25-26).

At the Board hearing, Dr. Moyer testified that in addition to Mr. Samuelson’s argumentative communication style, the primary reason for the recommended demotion was “the dysfunctional relationship that [Mr. Samuelson] has with many, many people and which has created a dysfunctional environment at the high school where a lot of people will avoid the high school office as a result of that.” (N.T. 579). Dr. Moyer further testified that he recommended the demotion because, “[Mr. Samuelson] has strained relationships with a number of people within the high school staff there as well as central office as well as even at times with Board members and community members and some parents along the way.” (N.T. 177). Dr. Moyer also testified that during his second year as Superintendent he began having concerns about whether Mr. Samuelson was the right person to be the high school principal. (N.T. 177-78). Dr. Moyer’s conclusions are based on and supported by numerous evaluations, incidents, and, as identified and discussed below, methods taken by central office administration to assist Mr. Samuelson in succeeding as the high school principal.

Dr. Moyer’s concerns regarding Mr. Samuelson’s effectiveness as high school principal began during the 2010 – 2011 school year. (N.T. 177-79). In the fall of 2010, four (4) people - the middle school principal, food services director, special education director, and human

resources director - separately approached Dr. Moyer regarding their individual relationships with Mr. Samuelsen. (N.T. 177 – 78; 227 – 28). According to Dr. Moyer, each person wanted a “better relationship . . . they were tired of [Mr. Samuelsen’s] communication style . . . and they thought [Mr. Samuelsen’s communication style] was condescending, belittling and argumentative on an ongoing, regular basis.” (N.T. 178). Dr. Moyer testified, “many times . . . it is not the substance of what [Mr. Samuelsen] is saying, it is how the communication is delivered and in the manner that it is delivered.” (N.T. 293). Despite these concerns Dr. Moyer, in the interest of leadership stability at the high school, “wanted to make sure [the administration and the District] gave [Mr. Samuelsen] every opportunity [to succeed.]” (N.T. 179). Dr. Moyer, along with other administrators, met with Mr. Samuelsen and made him aware of staff concerns, and contracted with the Employment Assistant Program (EAP) to secure a mentor for Mr. Samuelsen. (N.T. 178).

The performance rankings on Mr. Samuelsen’s evaluations support Dr. Moyer’s testimony. The 2010 – 2011 evaluation, completed by Dr. Moyer and Mr. Musselman, provided numerous recommendations for Mr. Samuelsen to consider moving forward as high school principal. (Stipulated Exh. B). One recommendation suggested that Mr. Samuelsen should be careful not to come off as being perceived as argumentative. (Stipulated Exh. B). Mr. Musselman testified he and Dr. Moyer included this recommendation in the evaluation “based on past experiences [Mr. Musselman] had witnessed with Mr. Samuelsen.” (N.T. 327). Mr. Musselman and Dr. Moyer wanted Mr. Samuelsen to work on this characteristic to build “more of a team atmosphere in our administrative staff.” (*Id.*). In addition, Mr. Musselman personally observed situations where Mr. Samuelsen failed to compromise. (N.T. 328). Therefore, Dr.

Moyer and Mr. Musselman also encouraged Mr. Samuelson to utilize effective compromise. (Stipulated Exh. B; N.T. 327).

Furthermore, Dr. Moyer and Mr. Musselman recommended that Mr. Samuelson minimize “e-mail episodes.” (Stipulated Exh. B). Mr. Musselman and Dr. Moyer “felt it was necessary for [Mr. Samuelson] to sit down and discuss . . . issues face to face,” rather than send “multiple long, lengthy emails.” (N.T. 328). At the hearing before the Board, Mr. Samuelson acknowledged one of his perceived shortcomings is that staff and administration perceived him as argumentative through emails. (N.T. 73). Furthermore, he admitted the instruction from Dr. Moyer and Mr. Musselman that he speak face to face with staff and administration rather than sending email was “meant solely and exclusively to improve [his] communication skills.” (*Id.*).

Finally, the evaluation noted, “when someone disagrees, everyone becomes “crazy”, “ignorant”, “bizarre.” (Stipulated Exh. B). Mr. Musselman heard Mr. Samuelson speak those words on multiple occasions in regards to staff at the central office, Mrs. Frock, Board Members, parents, and school vendors. (N.T. 329). Despite Mr. Musselman’s testimony, Mr. Samuelson testified that he did not recall making references to teachers, administrators, the architect, or Board members as “crazy, ignorant, or bizarre” but that he could have “talked about something like that in a closed meeting.” (N.T. 76-77).

In response to the 2010 – 2011 evaluation, Mr. Samuelson drafted a rebuttal memo. (Stipulated Exh. B). Mr. Musselman testified that Mr. Samuelson identified different accomplishments regarding the state Keystone exams, but Mr. Musselman “talked with some of the teachers who . . . passed on concerns that they were sent to training, in lieu of an administrator . . . where everybody else there was a principal or someone else from an administrative team . . . and they felt uncomfortable” being there. (N.T. 331). The letters Mr.

Samuelsen included with the rebuttal memo were “letters that were sent out . . . and [did not] necessarily show direct involvement with actually setting up . . . the Keystone exams.” (N.T. 332). In the rebuttal memo, Mr. Samuelsen did not address anything in the 2010 – 2011 evaluation that pertained to the perception that he was argumentative, refused to compromise, or made certain disparaging statements when someone disagreed with him. After Mr. Samuelsen submitted the rebuttal memo, Dr. Moyer was “disappointed” with the fact that “Mr. Samuelsen [was] not getting it.” (N.T. 193).

Mr. Samuelsen received the 2010 – 2011 evaluation in July 2011. (Stipulated Exh. B). As Mr. Samuelsen continued through into the 2011 – 2012 school year, Dr. Moyer believed Mr. Samuelsen made “minimal progress” but that it was only temporary progress and then he would resort back to his old behaviors. (N.T. 192). In October 2011, the HEA contacted District Administration with concerns about a hostile work environment at the high school. (N.T. 198 – 200). Elaine Kennedy, family and consumer science teacher and building representative for the HEA (“Ms. Kennedy”), approached the central administration with a list of complaints/concerns from the teacher’s union about Mr. Samuelsen. (N.T. 563). These included:

- Issues about a teaching assignment for a teacher operating a school store;
- The way Mr. Samuelsen handled meetings and employees;
- Mr. Samuelsen’s tone and comments;
- Issues about the Building Improvement Committee; and
- The inability to bring many concerns to department chair meetings.

(N.T. 563 – 64). Ms. Kennedy also testified that Mr. Samuelsen referred to her and other female department chairs as “you ladies” and did so in a “loud, abrupt” tone. (N.T. 564 - 66).

As a result of the HEA complaints, district administrators conducted an investigation, which included interviewing a number of teachers. (Stipulated Exh. E; N.T. 202-203; 538 - 39). On October 21, 2011, Dr. Moyer, Dr. Smith and Mrs. Frock discussed these concerns with Mr.

Samuelsen and reviewed various recommendations with him (N.T. 96-98; District Exh. 27). Although Dr. Moyer, Dr. Smith, and Mrs. Frock did not find that the concerns rose to the level of a hostile work environment, they “realized that . . . the same concerns that the staff were having were the same – many of the types of things that [Dr. Moyer, Dr. Smith, and Mrs. Frock] were seeing as evaluators.” (N.T. 206). At this point, Dr. Moyer, Dr. Smith, and Mrs. Frock attempted to “make it clear that if there was not a concerted effort on Mr. Samuelsen’s part to address some of these things . . . that [Dr. Moyer, Dr. Smith, and Mrs. Frock] would have to take further steps.” (N.T. 206).

On December 22, 2011, Dr. Moyer, Dr. Smith, and Mrs. Frock met with Mr. Samuelsen regarding the investigation and their findings. (Stipulation 14). Mr. Hershner, Principal of Hanover Street Elementary School, also attended the meeting at Mr. Samuelsen’s request. (Stipulation 16). Following the investigation, the administration directed Mr. Samuelsen to implement and follow specific strategies. (Stipulated Exh. E; N.T. 206 - 07). All of this information, the investigative conclusions and the strategies, were included in a December 22, 2011 letter given to Mr. Samuelsen, written by Dr. Moyer, Dr. Smith, and Mrs. Frock. (Stipulated Exh. E; ¶ 13 of Findings of Fact).

Dr. Moyer addressed each of the aforementioned strategies during his testimony at the hearing before the Board on July 24, 2012, and provided the reasons why he, Dr. Smith, and Mrs. Frock recommended each strategy. (N.T. 207 – 211). One of the strategies was a referral to the EAP, which the administrators believed would assist him in becoming a more positive and effective leader. (Stipulated Exh. E; N.T. 207). However, Mr. Samuelsen refused to go to the EAP. (N.T. 212).

On February 2, 2012, Dr. Moyer and Mrs. Frock met with Mr. Samuelsen regarding an incident between Mr. Samuelsen and Mrs. Gomulka on January 31, 2012. (Stipulated Exh. F; N.T. 220 – 223). On January 31, 2012, Mrs. Gomulka had gone to Mr. Samuelsen’s office to obtain his approval on surveys Ms. Gomulka wanted to distribute to the students. (N.T. 282). At that time, Mr. Samuelsen refused to approve the surveys. (Stipulated Exh. F). Following the encounter, Ms. Gomulka wrote an email expressing that she “felt attacked and belittled.” (Stipulated Exh. F). At their meeting, Dr. Moyer and Mrs. Frock showed Mr. Samuelsen the emails sent by Mrs. Gomulka regarding the incident. (Stipulated Exh. F; N.T. 221.). Mrs. Frock “made it very clear that [Dr. Moyer and Mrs. Frock] expected [Mr. Samuelsen] not to follow up on that issue with Mrs. Gomulka . . . that she had brought it to [their] attention.” (N.T. 222).

On February 9, 2012, Mrs. Gomulka went to Mr. Samuelsen’s office to discuss taking her students to a mathematics competition. (Stipulated Exh. M, Anec. Rec. 11). Mr. Samuelsen instructed Mrs. Gomulka to make an appointment to discuss the matter and to bring someone with her to that appointment. (Stipulated Exh. M, Anec. Rec. 11; N.T. 117 – 118). When asked why she should bring someone with her, Mr. Samuelsen stated that they had an unpleasant conversation in the past and she was not going to like what he had to say. (N.T. 737). After Mrs. Gomulka left Mr. Samuelsen’s office, she sent an email relaying what happened. (Stipulated Exh. M, Anec. Rec. 11). Dr. Moyer and Mrs. Frock interviewed Mrs. Gomulka following the incident and Mrs. Frock and Dr. Smith talked to people who were in the office when Mrs. Gomulka approached Mr. Samuelsen. (N.T. 225). Dr. Moyer viewed Mr. Samuelsen’s actions that day as “a violation of the directive not to retaliate against [Mrs. Gomulka].” (N.T. 224 - 25).

As a result of Mr. Samuelson's "insubordination," the district administration suspended Mr. Samuelson for five (5) days on February 10, 2012. (Stipulated Exh. G; N.T. 217, 291). In the letter notifying Mr. Samuelson of his suspension, Dr. Moyer and Dr. Smith noted:

You have continued to treat high school staff members in a less than professional manner . . . In choosing to ignore a clear directive given by the superintendent you have demonstrated a total disregard and indifference to his authority . . . this type of action, along with your continual unwillingness to follow our previous directives provided to you in the letter of December 22, 2012, will not be tolerated.

(Stipulated Exh. G).

Upon return from his suspension, Mr. Samuelson received an unsatisfactory mid-year evaluation. (Stipulated Exh. K). Dr. Moyer admitted that the administration was "growing frustrated and wanted to get Mr. Samuelson's attention." (N.T. 216 - 17). The cover letter accompanying the unsatisfactory evaluation noted, "your complete refusal to acknowledge that these issues exist continues to promote a negative atmosphere indicative of the nonfunctional and unproductive environment . . ." (Stipulated Exh. M, Anec. Rec. 14). The 2011 - 2012 mid-year evaluation also raised concerns surrounding the educational achievement and progress at the high school. (Stipulated Exh. K; N.T. 218 - 19).

In yet another effort to support Mr. Samuelson, the administration contacted Mr. Bradley Arnold to serve as Mr. Samuelson's mentor. (N.T. 300 - 301). Mr. Arnold met with Mr. Samuelson eight (8) separate times from March 15, 2012, to May 2, 2012. (Stipulated Exh. L; Stipulation 26; N.T. 376). Mr. Arnold wanted to develop a relationship based on trust with Mr. Samuelson; thus, they discussed a variety of topics during those meetings, including politics, family, jobs, and school. (N.T. 367-69). Mr. Arnold noted concern with Mr. Samuelson's communication style and relationships with staff. (N.T. 371). Mr. Arnold used Mr. Samuelson's improvement plan to begin discussions about where Mr. Samuelson could improve. (N.T. 373 -

74). Mr. Arnold testified he believed Mr. Samuelsen saw “very little truth in [his] improvement plan.” (N.T. 374). After the first meeting on March 15, 2012, Mr. Arnold began drafting a mentoring progress report regarding Mr. Samuelsen. (Stipulated Exh. M, Anec. Rec. 17; N.T. 375). Mr. Arnold continued to work on and update this report as his meetings with Mr. Samuelsen continued. (N.T. 375 – 376). As he updated his report, Mr. Arnold noted “my impressions of our progress with Drew over a period of basically two and a half months.” (Stipulated Exh. M, Anec. Rec. 17; N.T. 375 – 376). Mr. Arnold included a number of recommendations for Mr. Samuelsen to implement moving forward. (Stipulated Exh. M, Anec. Rec. 17).

On July 5, 2012, Mr. Samuelsen learned he would receive an unsatisfactory rating for the 2011 – 2012 school year. (N.T. 668). On July 5, 2012, Dr. Moyer recommended Mr. Samuelsen’s demotion from the position of High School Principal to classroom teacher, pursuant to Section 1151 of the Public School Code (“Code”). (24 P.S. §11-1151; Stipulated Exh. N). A Statement of Charges and Notice of Right to Hearing, signed by the President and Secretary of the Board, was issued on July 5, 2012. (Stipulated Exh. N)

On July 23, 2012, Mr. Samuelsen received an unsatisfactory evaluation for the 2011 - 2012 school year from Dr. Moyer. (Stipulated Exh. M). Mr. Samuelsen received a rating of 12 (out of a maximum of 30) with respect to “Administrative Responsibilities” and 12 (out of a maximum of 35) with respect to “General Skills, Attitude, and Ethical Standards.” Dr. Moyer, who prepared the evaluation, believes that the evaluation fairly reflects Mr. Samuelsen’s service as high school principal throughout the 2011 – 2012 school year. (Stipulated Exh. M; N.T. 183).

The District presented ample evidence of Mr. Samuelsen’s inability to communicate effectively with staff and central administration and it was noted on various evaluations and

recommendations provided to Mr. Samuelson by the District. The District's basis for Mr. Samuelson's demotion closely resembles various situations where the Secretary of Education ruled a demotion valid. In *Stackpole v. Sch. Dist. Of Pgh.*, a district demoted an administrator because of his "inability to communicate appropriately with his supervisors and subordinates." (TTA No. 12-86, p. 158). In *Katruska v. Bethlehem-Center Sch. Dist.*, the Secretary concluded, "while when taken in isolation, any one interaction with an employee may appear trivial, the District clearly established that, as viewed in the aggregate, [the employee] had failed to establish satisfactory or effective working relationships with many of his staff." (TTA No. 4-97, p. 16). In addition to the contested incident with Ms. Gomulka, Dr. Moyer had frequently noted in evaluations and recommendations that Mr. Samuelson needed to build relationships and connect with staff and administrators.

In *Brunson v. Coatesville Area Sch. Dist.*, the Secretary upheld a demotion where the record showed "inappropriate conduct and demeanor toward many members of the professional staff" and made "rude, indifferent remarks to various teachers." (TTA No. 1-02, pp. 6, 8). Finally, and most applicable to the situation at hand, in *Brown v. Parkland Sch. Dist.*, the Secretary upheld the demotion of an elementary school principal, noting:

The maintenance of an efficient and competent school system is a recognized objective of any school district. In order to achieve this goal, the District expected that its principals possess effective technical, interpersonal and conceptual skills. Brown failed to meet those expectations, and in the opinion of the administration, could not breach the resulting schism that had emerged with many of her staff. The District's decision to remove Brown from the position of principal and return her to the classroom was neither arbitrary nor improper, but rather a sound determination based on the educational and management needs of the District.

(TTA No. 7-97, pp. 13-14). Dr. Moyer noted that in the interest of leadership stability at the high school, the administration "wanted to make sure [the administration and the District] gave

[Mr. Samuelson] every opportunity” to succeed. (N.T. 179). The District provided numerous resources and opportunities for Mr. Samuelson to work effectively at the high school: the evaluations provided significant feedback as to his strengths and weaknesses; Dr. Moyer and others frequently met with Mr. Samuelson to discuss issues at the high school; and the administration employed the assistance of Mr. Arnold to assist and mentor Mr. Samuelson in his position as high school principal. As in *Brown*, Mr. Samuelson was unable to “breach the resulting schism” that occurred between himself and members of the high school staff and central administration.

Mr. Samuelson contends the aforementioned cases cited as support for the District’s decision go “far beyond . . . interpersonal disagreement.” (Appellants Brief to the Secretary of Education, at 41). This argument is unpersuasive. Rather than focus on the rationale and reasoning employed by the Secretary, Mr. Samuelson focuses on how his situation differs factually from the educators in the aforementioned cases. While there may be limited factual similarities, Mr. Samuelson’s actions over the course of two and a half years and the Board’s decision to demote him align with the holistic rationale used by the Secretary in the four cases referenced above.

In this case, there is ample evidence in the record supporting the reason and rationale of the Board’s decision to demote Mr. Samuelson from High School Principal to Middle School Language Arts Teacher.

***Mr. Samuelsen Failed To Meet His Burden Of Proving His Demotion Was Arbitrary Discriminatory Or Founded On Improper Considerations.***

Demotions are presumptively valid and after a school district explains the rationale for the demotion of a professional employee, the burden then shifts to the employee to prove that the demotion was arbitrary, discriminatory or founded upon improper considerations. *Filoon v. Middle Bucks Area Vocational-Technical Sch.*, 634 A.2d 726 (Pa. Cmwlth. 1993), *appeal denied*, 651 A.2d 544 (Pa. 1994); *Green v. Jenkinstown Sch. Dist.*, 441 A.2d 816 (1982). Mr. Samuelsen failed to meet his burden of proving that his demotion was arbitrary, discriminatory or founded on improper considerations. To prove that a demotion is arbitrary, the employee must show that the demotion is “based on random or convenient selection rather than on reason.” *Bd. of Pub. Educ. of the Sch. Dist. of Pgh. v. Thomas*, 399 A.2d 1148, 1149 (Pa. Cmwlth. 1979).

Mr. Samuelsen believes he received “a lot of push back for addressing policy.” (N.T. 74).

When asked about his demotion at the hearing, Mr. Samuelsen replied:

I think it is unfounded. I think it isn't really about a demotion at all. I think it's about punishment. I think it is a combination. I think it is about harassment. I think it is about covering up the tremendous lack of understanding at the central office level. And I think it is the only option they have at this point is to demote me because I have to be, I think, punished for unfounded reasons.

(N.T. 681). In support of his allegations that he was demoted for defending policy, Mr. Samuelsen draws attention to numerous incidents:

- Mr. Samuelsen reported potential sexual harassment issues in the school cafeteria in December 2010. (Petition for Appeal, at 7; Samuelsen Exh.10, 12; N.T. 233 – 234, 265-268). When asked about this incident, Dr. Moyer stated he was not angry that Mr. Samuelsen brought the issues to Dr. Moyer's attention but was appreciative that he had done so. However, even after discipline had been imposed, Mr. Samuelsen would not let the matter go. This was indicative of Mr.

Samuelsen's behavior in the past few years where he simply could not let things go even after the matters had been closed. (N.T. 305 – 306).).

- In March 2011, Mr. Samuelsen opposed a decision permitting one student to take additional credits during the 2010 – 2011 school year and believes his opposition played a role in Dr. Moyer's demotion decision. (Petition for Appeal, at 7 – 8; Samuelsen Exh. 14; N.T. 251 – 257). Mr. Samuelsen argued that this decision violated Policy 217, which stated "students may earn no more than eight credits per school year." (District Exh. 16). However, the school district "policy [contained a] waiver within the policy that allows the principal the right to actually give [a student] additional credits." (N.T. 336 – 337).
- In an email, Mr. Samuelsen informed Dr. Moyer of a remark made by Dr. Smith to Mr. Samuelsen after a staff meeting surrounding furloughs in April 2011. (Samuelsen Exh. 16). Mr. Samuelsen perceived the comment as an assumption by Dr. Smith that Mr. Samuelsen was the source or cause of the teachers' comments at the furlough meeting. Mr. Samuelsen, in his email, stated his opinion that he thought the meeting was productive and Dr. Moyer responded that he agreed with Mr. Samuelsen's perception of the meeting.
- Mr. Samuelsen expressed concern in May 2011 surrounding how the central administration addressed a teacher moving from a full-time position to a part-time position. (Samuelsen Exh. 18).
- In May 2011, Mr. Samuelsen expressed concern over teachers searching students at the high school following a particular student's return to school after a policy violation. (Petition for Appeal, at 8; Samuelsen Exh. 17; N.T. 601 – 603).

- Mr. Samuelsen raised concerns surrounding a drug paraphernalia matter and the need for a hearing before the Board in August 2011. (Samuelsen Exh. 27; N.T. 612 – 613). In December 2011, Mr. Samuelsen emailed Dr. Moyer regarding rumors of Mr. Samuelsen’s attendance at anger management. (Samuelsen Exh. 75; N.T. 547; 625).
- In February 2012, Mr. Samuelsen questioned the administration’s knowledge that Terra Nova exams were left in the school building instead of being returned to the state. (Samuelsen Exh. 24; N.T. 524 – 531).

In sum, Mr. Samuelsen believes he was “on numerous occasions, retaliated against for doing what any sensible principal or professional knows must be done.” (Samuelsen Exh. 10). Nothing in the record supports a conclusion that Dr. Moyer or the District retaliated against Mr. Samuelsen, and Dr. Moyer testified that Mr. Samuelsen’s positions on these issues did not contribute to his demotion recommendation (N.T. 574 - 77). Dr. Moyer encouraged participatory decision making and acknowledged that sometimes people had to “agree to disagree.” (N.T. 574). He also noted, however, disagreement “crosses the line when it gets to a point where it is argumentative, there is a final decision made, or the person higher in the chain of command does makes a final decision and we can’t then move past the issue . . . .” (N.T. 574). Furthermore, Dr. Moyer did not mention or include any of the above instances in Mr. Samuelsen’s 2011 – 2012 unsatisfactory evaluation and/or demotion recommendation. (Stipulated Exh. M. and Anecdotal Records).

Throughout the hearing, Mr. Samuelsen relied on witness testimony about instances when he was not demeaning, (N.T. 423), and when he provided instructional leadership and accepted staff communication of concerns. (N.T. 411 – 412). Most of the evidence Mr.

Samuelsen presented failed to address the District's reasoning that Mr. Samuelsen was demoted because

Samuelsen lacks fundamental interpersonal skills and . . . his autocratic leadership and decision making, tone and style of communication, argumentative nature and unwillingness to compromise, lack of respect for the feelings and perceptions of others, and his adamant resistance to feedback as to all of the above, prevent him from serving as an effective leader at the High School.

(Adjudication, at 26). Simply because there were instances where Mr. Samuelsen provided instructional leadership, accepted staff concerns, and acted in a non-demeaning manner, does not dispute the significant evidence presented by the District in the form of testimony and exhibits that Mr. Samuelsen was not effective in his position. In addition, Mr. Samuelsen acknowledged during his testimony at the hearing that while he was principal, complaints arose about:

- His performance,
- How he treats people,
- His rudeness,
- His creation of a hostile work environment at the high school,
- His lack of professionalism, and
- A tendency not to walk into Mr. Samuelsen's office out of wanting to avoid him.

(N.T. 55 – 58).

Lastly, as noted above, Dr. Moyer recommended the demotion because, “[Mr. Samuelsen] has strained relationships with a number of people within the high school staff . . . as well as central office . . . Board members and community members and some parents along the way.” (N.T. 177). While Mr. Samuelsen argues in his brief that the Administration “called no board member, community member, or parent to testify,” this argument is unpersuasive as the district need only explain the reason for the demotion. (*Bosak v. Oswayo Valley Sch. Dist.*, TTA 6-83).

Mr. Samuelsen failed to meet the heavy burden of proving that his demotion was arbitrary, discriminatory or founded on improper considerations. Rather than address the

rationale for the demotion addressed by Dr. Moyer and in the various evaluations and improvement plans, Mr. Samuelsen chose to address other factors he believed served as the reasons for his demotion. The evaluations, anecdotal notes on the evaluations, and the testimony and documents submitted at the hearing before the Board articulate the District's rationale and support the Board's decision to demote Mr. Samuelsen.

### **CONCLUSION**

As illustrated by the evidence, the District articulated the rationale for Mr. Samuelsen's demotion and Mr. Samuelsen did not show that his demotion was arbitrary, discriminatory or based on improper considerations. Therefore, the Board's decision is affirmed.

Accordingly, the following Order is entered:

