

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

RIKKA BROWN, )  
 )  
 Appellant, )  
 )  
 v. ) C.A. No. N25A-05-003 FWW  
 )  
 APPOQUINIMINK SCHOOL )  
 DISTRICT, BOARD OF )  
 EDUCATION, )  
 )  
 Appellee. )  
 )

Submitted: January 16, 2026  
Decided: April 23, 2026

*On Appeal from the Appoquinimink School District Board of Education,*  
**AFFIRMED**

**MEMORANDUM OPINION**

Michele D. Allen, Esquire, ALLEN & ASSOCIATES, 2751 Centerville Road, Suite 303, Little Falls II, Wilmington, DE 19808, attorney for Appellant Rikkia Brown.

Michael P. Stafford, Esquire, Alpa V. Bhatia, Esquire, YOUNG CONAWAY STARGATT & TAYLOR, LLP, 1000 North King Street, Wilmington, DE 19801, attorneys for Appellee Appoquinimink School District, Board of Education.

**WHARTON, J.**

## I. INTRODUCTION

Before this Court is an appeal from the decision of the Board of Education of the Appoquinimink School District (“The Board”) to terminate Rikkia Brown (“Brown”) who is a lifelong educator. Brown was employed as an Autism RISE teacher at Louis L. Redding Middle School (“Redding”) prior to her termination. Brown was terminated by the District for engaging in a false report of a student interaction. She requested a hearing upon notification of her termination, and it was held on April 7, 2025. The Board officially voted to terminate Brown on May 13, 2025 after their review of the hearing record.

In this appeal, Brown seeks a review of the Board’s May 13, 2025 decision to terminate her. Brown contends that the Board erred when it relied on the report of the Hearing Officer as that report lacks substantial evidence to support a finding of misconduct in office. She also contends that both the Board and the Hearing Officer misapplied Delaware law regarding what amounts to misconduct in office.

In considering an administrative appeal such as this, the Court must determine whether the Board’s decision is free from legal error and supported

by substantial evidence.<sup>1</sup> Specifically, the Court must determine whether the Board erred in determining that Brown's termination was due to her engaging in misconduct in office. The Court is not free to reweigh the evidence and reach its own factual conclusions. Upon consideration of the record and pleadings, the Court finds that the Board's decision was supported by substantial evidence in its finding of misconduct in office. Additionally, the Board did not err as a matter of law when it terminated Brown for misconduct in office. Accordingly, the Board's decision is **AFFIRMED**.

## II. FACTUAL AND PROCEDURAL CONTEXT

As of December 2, 2024, Brown had been employed by the District for approximately five years.<sup>2</sup> She had worked in education for about twenty years, which included service in the Delaware Autism Program for the Christina School District and in the School District of Philadelphia.<sup>3</sup> Brown holds a bachelor's degree in human services, a master's degree in education leadership, a second master's degree in special education, and a certificate in autism.<sup>4</sup> She taught in the District's autism RISE program at Redding middle

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<sup>1</sup> *Conagra/Pilgrim's Pride, Inc. v. Green*, 2008 WL 2429113, at \*2 (Del. June 17, 2008).

<sup>2</sup> Op. Br. at 1, D.I. 12.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Id.* at 2.

school.<sup>5</sup> The Rise program is a specialized program for students with a primary diagnosis of autism that operates across three separate levels and classrooms.<sup>6</sup> Brown was responsible for one of these classes which consisted of seven students.<sup>7</sup> The students in her class had more verbal capabilities than students in the other two classes.<sup>8</sup> Another class within the RISE program at Redding was taught by Nick Costa (“Costa”) as well as two assistants Erline Lancaster (“Lancaster”) and Taryn Baer (“Baer”).<sup>9</sup> Their class contained five students who were mostly non-verbal and had different behavioral needs.<sup>10</sup>

On December 2, 2024 at approximately 7:28 a.m., Brown escorted her student, R.P., to the boys’ restroom in the RISE hallway.<sup>11</sup> As R.P. reached his right arm to open the bathroom door, another student, G.J., a student in Costa’s classroom, opened the door from inside and exited.<sup>12</sup> Brown subsequently reported that she witnessed G.J. hit R.P.’s arm with a closed fist

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<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 2; Ans. Br. at 1, D.I. 13.

<sup>7</sup> Op. Br. at 2.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.* at 2-3.

<sup>10</sup> *Id.*

<sup>11</sup> Op. Br. at 3; Ans. Br. at 1.

<sup>12</sup> Op. Br. at 3; Ans. Br. at 1.

as R.P. was reaching to open the door.<sup>13</sup> She confronted G.J. by asking why he hit R.P.<sup>14</sup> Lancaster, who came into the hallway to check on whether G.J. had exited the restroom, heard Brown ask G.J. if he hit R.P., although she did not herself see the moment of contact.<sup>15</sup> R.P. then entered the restroom while G.J. walked back toward Lancaster and his classroom.<sup>16</sup> Brown remained at the restroom door as R.P. was inside, at this time she described to Lancaster and Costa the incident she observed.<sup>17</sup> During this conversation she reported that there was no antecedent to the hit and she demonstrated the gesture she said occurred and the hunching posture she observed from G.J. as he walked away.<sup>18</sup> The hunching posture from G.J. was important to note as he had a history of behavioral issues and can go into a “crisis mode” during which he “hunches up or scrunches up.”<sup>19</sup>

Brown then took R.P. to the nurse’s office for an evaluation by Nurse Amy Wolf (“Nurse Wolf”).<sup>20</sup> There is a dispute between Brown and the Board as to the report she made to Nurse Wolf at this time. Brown states that

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<sup>13</sup> Op. Br. at 3.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

she told Nurse Wolf that R.P. was hit with a closed fist by G.J.<sup>21</sup> The Board and Nurse Wolf state that Brown said G.J. punched or hit R.P. multiple times with a closed fist.<sup>22</sup> Brown testified at the hearing that she heard Nurse Wolf ask R.P. if he was hit and that R.P. said yes, and he indicated the location by gesturing and tapping his right arm near the hand/wrist area.<sup>23</sup> Nurse Wolf testified at the hearing that she could not recall whether she asked R.P. if he was hit and that her examination revealed no injury and no nonverbal signs of pain or agitation.<sup>24</sup> Upon completing the evaluation, Nurse Wolf called R.P.'s parents and advised them that there had been a physical interaction and that R.P. was being assessed.<sup>25</sup> She then passed the phone to Brown, who told the parents that there was a physical altercation. Brown later acknowledged she may have used the term "physical assault," to describe the incident.<sup>26</sup>

Nurse Wolf contacted Assistant Principal Jayme Kowal ("Kowal") due to the use of the term "assault" during the parent phone call, prompting administrative attention.<sup>27</sup> Kowal met with Nurse Wolf about the incident.

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<sup>21</sup> *Id.*; Appx. at 54.

<sup>22</sup> Ans. Br. at 2.

<sup>23</sup> Op. Br. at 4; Appx. at 54.

<sup>24</sup> Op. Br. at 5; Appx. at 13; Ans. Br. at 2.

<sup>25</sup> Op. Br. at 5.

<sup>26</sup> *Id.*

<sup>27</sup> Op. Br. at 5; Ans. Br. at 2-3.

The location of that meeting was disputed at the hearing, with Nurse Wolf testifying it occurred in the nurse’s office and Kowal testifying it occurred in her office.<sup>28</sup> Nurse Wolf testified she was directed by Kowal to submit a written statement before completing any other task, a directive Kowal later denied issuing.<sup>29</sup> Nurse Wolf submitted a written statement at 8:55 a.m. on December 2, 2024, and thereafter completed her nursing assessment in the school’s health accounting system beginning at 9:11 a.m. and ending at 9:25 a.m.<sup>30</sup> In the written statement, Nurse Wolf reported that Brown told her that G.J. approached R.P. and punched him with a closed fist multiple times to his right arm, and that Ms. Brown told the parents that R.P. had been physically assaulted and punched in the arm.<sup>31</sup> Her nursing assessment, however, states that the teacher reported a peer “hit [R.P.] with a closed fist” to an unspecified upper extremity.<sup>32</sup> Nurse Wolf testified that she did not include terms such as “punched,” “multiple times,” or “assault” in her assessment because such details were not used to assess injury, and that “closed fist” was used to signify

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<sup>28</sup> Op. Br. at 5-6.

<sup>29</sup> *Id.* at 6.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 6; Appx. at 165-66.

<sup>32</sup> *Id.* at 6; Appx. at 168.

a punch rather than a slap.<sup>33</sup> Brown’s witness statement prepared that day also used “hit” and “closed fist” language.<sup>34</sup>

Kowal reviewed security camera footage of the area and reported that she did not see what Brown had reported, leading her to seek a review by Principal Leah Anderson-Copher (“Anderson-Copher”).<sup>35</sup> Kowal then obtained a written statement from Brown, and met with her again in the afternoon.<sup>36</sup> In the afternoon meeting, Kowal reported that Brown reenacted the incident by showing multiple closed-fist strikes.<sup>37</sup> Kowal then sought Costa’s assistance in asking G.J. whether he hit R.P.<sup>38</sup> When asked, G.J. indicated he did not hit R.P.<sup>39</sup> Kowal did not ask R.P. about the incident due to her understanding of his communication limitations and susceptibility to prompting.<sup>40</sup>

On December 11, 2024, District leadership held a “72-hour” meeting with Brown to inquire further about the incident.<sup>41</sup> Brown confirmed that the

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<sup>33</sup> Appx. at 15.

<sup>34</sup> Appx. at 166.

<sup>35</sup> Ans. Br. at 3-4.

<sup>36</sup> *Id.* at 3.

<sup>37</sup> *Id.* at 2; Appx. at 18, 60:16-24, 61:1-24; Appx. at 19, 62:1-12.

<sup>38</sup> Ans. Br. at 3.

<sup>39</sup> Ans. Br. at 3; Appx. at 29, 104:13-16.

<sup>40</sup> Ans. Br. at 3.

<sup>41</sup> Op. Br. at 6; Ans. Br. at 4.

contents of her written statement were accurate, reiterated that one student hit another, and did not add information beyond her statement.<sup>42</sup> On December 20, 2024, a subsequent meeting was held during in which District leadership showed Brown the video footage of the students passing in the bathroom doorway and Brown maintained that the incident occurred.<sup>43</sup> On or about January 8, 2025, the District informed Brown of its intent to recommend her termination to the Board.<sup>44</sup> On February 26, 2025, the Board made Brown aware of its intent to terminate her employment effective March 31, 2025, following a Board vote at its February meeting.<sup>45</sup> The stated basis for her termination was “misconduct in office, specifically, that [she] falsely accused a student of hitting a peer and provided a false report to school officials.”<sup>46</sup>

In connection with the December 2, 2024 incident, written statements were obtained from Lancaster and Costa.<sup>47</sup> Lancaster wrote in her statement that she heard Brown loudly ask G.J. why he “hit” R.P., and that Brown told her that G.J. “hit” R.P. on the arm.<sup>48</sup> Costa wrote in his statement that Brown

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<sup>42</sup> Op. Br. at 6.

<sup>43</sup> Ans. Br. at 4.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 4-5.

<sup>47</sup> Op. Br. at 15.

<sup>48</sup> *Id.*

informed him that G.J. “hit” R.P. while exiting the bathroom.<sup>49</sup> During the District’s follow-up, Brown maintained that she did not use the words “punch” or “multiple times” in describing the incident, the District nevertheless pursued termination asserting falsification.<sup>50</sup>

The video evidence was considered by the District and later by the Hearing Officer. Brown contends that the restroom-entrance cameras were partially obstructed at the key moment by her head, which blocked the bottom section of R.P.’s forearm and only the shoulder and top of G.J.’s arm were visible.<sup>51</sup> Thus, neither G.J.’s hand nor R.P.’s forearm can be seen at all times, leading to the contention that the footage does not clearly depict whether a hit did or did not occur.<sup>52</sup> The Hearing Officer found that despite shadows and blocked views, the record as a whole did not support Brown’s version of multiple closed-fist punches and found that the students’ visible reactions did not indicate a violent, intentional punch.<sup>53</sup> The Hearing Officer further found that R.P. showed no ascertainable injuries upon Nurse Wolf’s examination

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<sup>49</sup> *Id.* at 16.

<sup>50</sup> *Id.* at 8.

<sup>51</sup> *Id.* at 17.

<sup>52</sup> Appx. at 192.

<sup>53</sup> Ans. Br. at 10.

and that there was no physical reaction from either student suggesting multiple closed-fist strikes of the nature alleged.<sup>54</sup>

On January 6, 2025, R.P.'s father sent Brown an email stating, in part, that on December 2, 2024, the parents asked R.P. if anyone hit him and he affirmed that another child hit him, and upon repeated questioning he affirmed each time.<sup>55</sup> Brown testified she provided the email to her counsel with the understanding it would be shared with the Board.<sup>56</sup> The Board and Hearing Officer addressed the timing of the email's presentation, asserting it was introduced for the first time at the April 7, 2025 hearing.<sup>57</sup> The Board did not otherwise contact R.P.'s parents after the December 2, 2024 incident to inquire further, nor did the administration ask R.P. about the incident during its internal inquiry.<sup>58</sup>

Brown requested a termination hearing which took place on April 7, 2025, before Hearing Officer Geoffrey Grivner, Esq.<sup>59</sup> At the hearing, Brown, Nurse Wolf, Kowal, Lancaster, Anderson-Copher, Edward Small, and Costa

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<sup>54</sup> *Id.* at 10-11.

<sup>55</sup> *Op. Br.* at 19.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 9, 19.

<sup>59</sup> *Id.* at 1; *See Appx.* at 191.

testified.<sup>60</sup> The surveillance footage of the bathroom entrance was shown as well.<sup>61</sup> Following the closed hearing, the Hearing Officer issued a Report and Recommendation on May 8, 2025, recommending the termination of Brown.<sup>62</sup> The rationale cited was for misconduct in office on the basis that Brown falsely reported that G.J. assaulted R.P. and persisted in that account despite contrary video evidence.<sup>63</sup> On May 13, 2025, the Board approved and adopted the recommendation and voted to terminate Brown’s employment, with notice issued on May 19, 2025.<sup>64</sup>

### III. THE PARTIES CONTENTIONS

On May 21, 2025, Brown filed a Notice of Appeal to the Superior Court pursuant to 14 Del. C. § 1414.<sup>65</sup> In her Opening Brief, Brown challenges the sufficiency of the evidence supporting the Board’s decision and asserts legal error in the application of the “misconduct in office” standard.<sup>66</sup> She argues that the Board’s theory rested on a claim that she reported G.J. “punched [R.P.] multiple times” rather than “hit [R.P.] with a closed fist,” and that the

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<sup>60</sup> *See* Appx. at 67.

<sup>61</sup> *See* Appx. at 17.

<sup>62</sup> Op. Br. at 1; *See* Appx. at 191.

<sup>63</sup> Op. Br. at 1; *See* Appx. at 191.

<sup>64</sup> Op. Br. at 1; *See* Appx. at 206.

<sup>65</sup> *See* Notice of Appeal., D.I. 1.

<sup>66</sup> Op. Br. At 1.

video evidence is inconclusive at the critical moment.<sup>67</sup> She further contends that the school administration and Board did not ask R.P. or his parents about the incident beyond Nurse Wolf's initial informative call, and that her employment history and the single-incident nature of the allegation do not meet the asserted standard for misconduct in office.<sup>68</sup>

Brown contends the Board's termination decision is not supported by substantial evidence and has legal error because the record does not establish that she "willfully falsified" an assault or that her conduct meets Delaware's standard for misconduct in office.<sup>69</sup> She argues her reports consistently described that G.J. "hit" R.P. with a closed fist as he exited the restroom, not that R.P. was "punched multiple times," and that the Hearing Officer improperly centered his conclusion on disputed word choice.<sup>70</sup> She emphasizes contemporaneous statements from staff and her own incident report reflecting "hit"/"closed fist," and highlights inconsistencies between the nurse's written statement and nursing assessment regarding "punched multiple times."<sup>71</sup>

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<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 9.

<sup>70</sup> *Id.* at 12, 16, 17.

<sup>71</sup> *Id.* at 14, 15.

Brown maintains the video does not conclusively refute a hit due to obstructions in the view of the doorway. She notes the Hearing Officer acknowledged “shadows and bodies” and conceded some physical contact was “conceivable.”<sup>72</sup> She further argues the school administration and Board never asked R.P. whether he was hit and failed to contact his parents after the incident. She also offered an email from R.P.’s father stating R.P. affirmed multiple times that he was hit, which she says the Hearing Officer unreasonably discounted.<sup>73</sup>

On the legal standard, Brown argues “misconduct in office” requires unlawful or willful conduct and, in Delaware, has been upheld typically where there are multiple policy violations or a pattern, not a single disputed incident.<sup>74</sup> She distinguishes cases relied on by the Hearing Officer and contends that, even assuming a false report, this isolated event is not of the gravity needed to constitute misconduct in office as a matter of law.<sup>75</sup>

In its Answering Brief filed August 4, 2025, the Board contends that substantial evidence supports the Hearing Officer’s findings and that the legal standard was properly applied, emphasizing Nurse Wolf’s testimony and

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<sup>72</sup> *Id.* at 17.

<sup>73</sup> *Id.* at 19-20; Reply Br. at 13.

<sup>74</sup> Op. Br. at 22-23; Reply Br. at 19, 20.

<sup>75</sup> Op. Br. at 22-23; Reply Br. at 19, 20.

written statement concerning Brown’s use of “punched multiple times.”<sup>76</sup> It further points out Brown’s reenactment depicting multiple closed-fist strikes, the lack of injury, lack of observable reaction in the videos, G.J.’s denial when asked, and the Hearing Officer’s role in resolving testimonial conflicts and assigning weight to evidence.<sup>77</sup> The Board asserts that alleging a special education student assaulted another student under false pretenses, contrary to video evidence, constitutes misconduct in office.

The Board argues that the Hearing Officer’s findings which were adopted by the Board must be affirmed because they rest on substantial evidence and proper credibility determinations are reserved to the fact-finder.<sup>78</sup> The Board asserts the record supports that Brown reported a “punch” “multiple times,” reenacted multiple closed-fist strikes, and told the parents there was a “physical assault,” and that Nurse Wolf’s testimony as well as Brown’s own conduct corroborate those statements.<sup>79</sup>

The Board contends the video, considered with the entire record, does not show a hit of the nature Brown described, thus the Hearing Officer reasonably found Brown falsely accused a student and fabricated the

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<sup>76</sup> Ans. Br. at 10.

<sup>77</sup> *Id.*

<sup>78</sup> Ans. Br. at 6.

<sup>79</sup> *Id.* at 8, 9.

incident.<sup>80</sup> It further argues the Hearing Officer acted within his discretion to weigh conflicting testimony and discount evidence presented for the first time at the hearing, including the parent email, especially in light of timing and inconsistencies attributed to Brown during the investigation.<sup>81</sup>

On the law, the Board contends the Hearing Officer correctly applied Delaware’s definition of “misconduct in office” and that a single, willful falsification concerning student-on-student violence in a special education setting constitutes misconduct warranting termination.<sup>82</sup> Further arguing that no pattern is required, and Delaware decisions uphold terminations where conduct is “not reasonable” for the profession.<sup>83</sup> The Board therefore asks this Court to affirm the Board’s decision and reject Brown’s attempt to relitigate credibility and evidentiary weight on appeal.<sup>84</sup>

In sum, the factual dispute centers on the nature of the contact at the restroom doorway on December 2, 2024, whether any hit occurred and, if so, whether Ms. Brown reported multiple closed-fist punches, as well as the weight afforded to certain pieces of evidence. The procedural history

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<sup>80</sup> *Id.* at 10, 11.

<sup>81</sup> *Id.* at 12-15.

<sup>82</sup> Ans. Br. at 18.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 16.

comprises of the December 2024 internal investigation and meetings, the January–February 2025 notices of intent to terminate, the April 7, 2025 hearing and May 8, 2025 recommendation, the May 13, 2025 Board action and May 19, 2025 notice, and the May 21, 2025 appeal followed by briefing through August 18, 2025.

#### IV. STANDARD OF REVIEW

The Board's decision must be affirmed so long as it is supported by substantial evidence and is free from legal error.<sup>85</sup> Substantial evidence is that which a reasonable mind might accept as adequate to support a conclusion.<sup>86</sup> While a preponderance of evidence is not necessary, substantial evidence means “more than a mere scintilla.”<sup>87</sup> The Board’s decision must be affirmed so long as it is (1) supported by substantial evidence and (2) free from legal error.<sup>88</sup> A finding of substantial evidence requires such relevant evidence that a reasonable mind might accept as adequate to support a conclusion.<sup>89</sup> While

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<sup>85</sup> *Conagra/Pilgrim's Pride, Inc.* 2008 WL 2429113 at \*2.

<sup>86</sup> *Kelley v. Perdue Farms*, 123 A.3d 150, 153 (Del. Super. 2015) (citing *Person-Gaines v. Pepco Holdings, Inc.*, 981 A.2d 1159, 1161 (Del. 2009)).

<sup>87</sup> *Breeding v. Contractors-One-Inc.*, 549 A.2d 1102, 1104 (Del. 1988).

<sup>88</sup> *Unemployment Ins. Appeal Bd. of Dept. of Labor v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

<sup>89</sup> *Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. Super. Ct. 1994) (citing *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981)); *see also*, *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 477 (1951).

a preponderance of evidence is not necessary, substantial evidence means “more than a mere scintilla.”<sup>90</sup> Because the Court does not weigh evidence, determine questions of credibility, or make its own factual findings, in administrative appeals such as this one, it must uphold the decision of the Board unless the Board “acts arbitrarily, capriciously” or its decision “exceeds the bounds of reason.”<sup>91</sup> This Court's role is to correct errors of law and to review the factual findings of the Board below to determine if such findings are sufficiently supported by the record and are the product of an orderly and logical deductive process.<sup>92</sup>

Questions of law are reviewed *de novo*.<sup>93</sup> But, because the Court does not weigh evidence, determine questions of credibility, or make its own factual findings,<sup>94</sup> it must uphold the decision of the Board unless the Court

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<sup>90</sup> *Breeding v. Contractors-One-Inc.*, 549 A.2d 1102, 1104 (Del. 1988); *Universal*, 340 U.S. at 477 (“Accordingly, it must do more than create a suspicion of the existence of the fact to be established. . . . [I]t must be enough to justify, if the trial were to a jury, a refusal of a directed verdict when the conclusion sought to be drawn is one of fact for the jury.”).

<sup>91</sup> *PAL of Wilmington v. Graham*, 2008 WL 2582986, at \*4 (Del. Super. Ct. June 18, 2008).

<sup>92</sup> *Levitt v. Bouvier*, 287 A.2d 671, 673 (Del.1972).

<sup>93</sup> *Kelley*, 123 A.3d at 152–53 (citing *Vincent v. E. Shore Markets*, 970 A.2d 160, 163 (Del. 2009)).

<sup>94</sup> *Bullock v. K-Mart Corp.*, 1995 WL 339025, at \*2 (Del. Super. May 5, 1995) (citing *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66–67 (Del. 1965)).

finds that the Board's decision “exceeds the bounds of reason given the circumstances.”<sup>95</sup>

## V. DISCUSSION

### I. Substantial Evidence

The record contains substantial evidence supporting the Board’s determination that Brown submitted a materially false report regarding the student incident. The Board adopted the Hearing Officer’s finding that Brown inaccurately described the encounter as one in which a student “punched” another “multiple times,” labeled it a “physical[] assault,” and reenacted several closed-fist blows.<sup>96</sup> The Hearing Officer concluded that these descriptions were materially inconsistent with the objective evidence, specifically the security video.<sup>97</sup> The District’s notice and the Board’s vote were expressly grounded in this false-reporting theory.

The evidence presented supports that conclusion. The Hearing Officer determined that immediately after the encounter, Brown told the nurse that one student had been “punched” “multiple times,” informed the parent that

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<sup>95</sup> *Bromwell v. Chrysler LLC*, 2010 WL 4513086, at \*3 (Del. Super. Oct. 28, 2010) (quoting *Bolden v. Kraft Foods*, 2005 WL 3526324, at \*3 (Del. Dec. 21, 2005)).

<sup>96</sup> Appx. at 206; *see generally* Appx. 191-96.

<sup>97</sup> *Id.* at 196.

the student had been “physically[] assaulted,” and physically demonstrated multiple closed-fist strikes to the Assistant Principal.<sup>98</sup> Yet both the Assistant Principal and Principal independently reviewed the video and did not observe the conduct she described.<sup>99</sup> Nurse Wolf documented no injuries, R.P did not exhibit behavior consistent with having received multiple closed-fist blows, and G.J. denied hitting when questioned.<sup>100</sup> These contemporaneous observations sharply diverged from Brown’s account.

The Hearing Officer acknowledged that the video contained shadows and partially obstructed views, but he drew reasonable inferences from the totality of the evidence.<sup>101</sup> He concluded that the record did not depict the violent, intentional punching Brown reported.<sup>102</sup> He distinguished any conceivable incidental contact from the “multiple punches” and assault-level conduct she described, noting the absence of distress, injury, or behavior consistent with such blows.<sup>103</sup> His findings rested on the interplay between the video, Nurse Wolf’s assessment, and the immediate reactions of the students and administrators.

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<sup>98</sup> *Id.* at 192-193.

<sup>99</sup> *Id.* at 193-94.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.* at 196.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

Brown’s challenges do not undermine the substantial evidence supporting the findings. She disputes the Hearing Officer’s interpretation of her word choices—such as “closed fist” versus “punch”—and highlights differences between Nurse Wolf’s assessment and witness statement.<sup>104</sup> The Hearing Officer was not required to credit later-emerging evidence, including a parent email disclosed for the first time at the hearing, and could reasonably assign it little weight given earlier inconsistent accounts and nondisclosure during meetings after video review.

Were the Court the fact-finder, it is not certain at all it would reach the same conclusions as the Hearing Officer. For example, in reaching its decision, the Court would have considered the total absence of any evidence of a motive for Brown to falsely accuse G.J. of something he did not do. It would have considered Brown’s contemporaneous admonition to G.J. witnessed by Lancaster and her description of the event to Lancaster and Costa immediately after it occurred. Further, it likely would have given less weight to the testimony of Nurse Wolf given her inconsistent written statements on the day of the incident and the discrepancies between her testimony and that of other witnesses about various events. The Court may well have concluded

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<sup>104</sup> See generally Op. Br.

that a relatively minor incident escalated unnecessarily through the administrative process into a firing offense. In this case, however, the Hearing Officer was the fact-finder, and he is the one entitled to resolve testimonial conflicts, determine the credibility of witnesses, resolve issues of fact, and determine the weight of evidence, not this Court.<sup>105</sup>

Under Delaware’s deferential standard, the combination of video-based inferences distinguishing incidental contact from intentional punching, Nurse Wolf’s lack-of-injury assessment and contemporaneous observations, and Brown’s reportedly repeated descriptions of “punched,” “multiple times,” and “physically assaulted,” constitutes “relevant and competent evidence as a reasonable mind might accept as adequate”<sup>106</sup> to support the conclusion that she made a materially false report. Where substantial and credible evidence was presented to support the charges and an administrative hearing was held, this Court cannot substitute its judgment for that of the Hearing Officer and School Board.<sup>107</sup>

The Court concludes that the Board’s decision is supported by substantial evidence. The video recording of the incident arguably contradicts

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<sup>105</sup> *Bd. of Educ., Laurel Spec. Sch. Dist. v. Shockley*, 155 A.2d 323, 327 (1959).

<sup>106</sup> *Kelley*, 123 A.3d at 153 (citing *Person-Gaines*, 981 A.2d at 1161).

<sup>107</sup> *Bd. of Educ., Laurel Spec. Sch.*, 155 A.2d at 327 (citing *Applebaum v. Wulff*, 95 N.E.2d 19 (Ohio Com. Pl. 1950)).

Brown's written description of the student's conduct and the sequence of events; multiple witness accounts consistently report observations that are irreconcilable with Brown's narrative; Nurse Wolf's assessment documents the student's condition in a manner that undermines Brown's asserted basis for her report; and the Hearing Officer's findings synthesize this record, expressly determining that Brown's report contained statements inconsistent with the objective evidence. Taken together, this evidence provides a reasonable basis for the Board's determination that Brown submitted a materially false report regarding the student incident.

## **II. Free from Legal Error**

The Board also applied the correct legal standard for "misconduct in office" under 14 *Del. C.* § 1420. Misconduct has been defined as a "transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior."<sup>108</sup> Delaware courts define misconduct in office as "[a]ny unlawful behavior by a public officer in relation to the duties of his office, willful in character."<sup>109</sup> In *Ballard v. Bd. of Educ. of Christina Sch. Dist.*, this

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<sup>108</sup>*Rousak v. Bd. of Educ. of the Cape Henlopen Sch. Dist.*, 1987 Del. Super. LEXIS 1392, at \*8 (Dec. 23, 1987) (quoting Black's Law Dictionary 1150 (4th ed.1968)).

<sup>109</sup> *Id.*

Court held that it is sufficient that the “conduct was consistently contrary to the standard of behavior expected of a teacher.”<sup>110</sup>

Although some cases involve patterns of misconduct, Delaware law does not impose a categorical requirement that misconduct must occur repeatedly before it can justify termination. The Board therefore acted within the proper legal framework in evaluating whether Brown’s conduct constituted a willful breach of her professional obligations.

Brown’s reliance on *Ballard* does not alter this analysis. *Ballard* addressed two distinct statutory grounds, misconduct in office and willful and persistent insubordination, and explained that the latter requires a continuing refusal to obey directives, whereas misconduct in office turns on willful improper behavior related to official duties.<sup>111</sup> Brown’s attempt to graft a persistence requirement onto misconduct in office misreads the decision. The standards are separate, and the Board correctly applied the willfulness-based definition appropriate to misconduct in office.

Delaware authority, including *Mulstay v. Bd. of Educ. of Indian River Sch. Dist.*, emphasizes educators’ professional duties, particularly the

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<sup>110</sup> 1985 WL 188988 at \*3 (Del. Super. Mar. 27, 1985).

<sup>111</sup> *Id.*

obligation to protect student safety and maintain integrity in reporting.<sup>112</sup> The Court in *Mulstay* quotes *Kentucky Educ. Professional Standards Bd. v. Gambrel*,<sup>113</sup> regarding other states' definitions and applications of misconduct:

The word (misconduct in office) has a broad scope, and is more comprehensive than "immoral conduct" or "immorality," since the acts composing them must necessarily be immoral in nature. But conduct might not be intrinsically immoral and yet be "misconduct" as growing out of the status and social relationship of the one engaged in it. According to the text in 40 C.J. 1220, it is defined as: "Bad behavior; improper conduct; mismanagement; or wrong conduct, in usual parlance, a transgression of some established and definite rule of action, where no discretion is left, except what necessity may demand."<sup>114</sup>

This guidance as to the definition of misconduct assisted the Court in *Mulstay* in determining that there is a professionalism focus to misconduct and protecting the students is at the forefront.<sup>115</sup> This framework informs the gravity assessment for misconduct and supports the conclusion that willful false reporting about a student-safety event implicates core professional

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<sup>112</sup> 2003 WL 23219646, at \*9 (Del. Super. Dec. 8, 2003).

<sup>113</sup> 104 S.W.3d 767 (Ky. Ct. App., 2002).

<sup>114</sup> *Id.*

<sup>115</sup> 2003 WL 23219646, at \*9 (Del. Super. Dec. 8, 2003).

responsibilities. A single episode can therefore constitute misconduct in office when it reflects a serious breach of those duties.

*Rousak* does not bar the Board's conclusion. *Rousak* held only that the single incident at issue there, use of modified expletives in an extracurricular project, was insufficiently grave to constitute misconduct as a matter of law.<sup>116</sup> It did not preclude a finding of misconduct for a single, more serious, willful act. Here, the Hearing Officer found that Brown alleged an assault involving multiple punches contrary to the objective video record and persisted in that account. He concluded that Brown's conduct rises to the level of misconduct in office.<sup>117</sup> That qualitative assessment aligns with Delaware precedent distinguishing honest error from willful improper behavior.

In sum, the Board correctly applied Delaware's legal standards for "misconduct in office" to Ms. Brown's conduct. The Board distinguished, as Delaware law requires, between mere insubordination and the more serious breach of duty that constitutes misconduct, recognizing that misconduct turns on a willful violation of professional obligations and the attendant risks to the school community. The Board's analysis is consistent with the case law, which underscores that professional duties, particularly those bearing on

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<sup>116</sup> *Rousak*, LEXIS 1392, \*9.

<sup>117</sup> Appx. at 196.

student safety and institutional integrity, are paramount, and that willful acts subverting those duties fall within the ambit of misconduct in office. Here, the Board reasonably found that Brown's deliberate false reporting of an assault was a serious, intentional act that directly contravened her core professional responsibilities and jeopardized student safety and trust. Under Delaware law, a single egregious, willful act can constitute misconduct in office, and the Board's determination in Brown's case was therefore both legally sound and supported by the record.

For the reasons set forth above, the decision of the Appoquinimink School District Board of Education terminating Rikkia Brown's employment is **AFFIRMED**.

**IT IS SO ORDERED.**

/s/ Ferris W. Wharton  
Ferris W. Wharton, Judge