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ATTORNEYS AT LAW SINCE 1896

**PRIVILEGED ATTORNEY-CLIENT COMMUNICATION**

Mr. Richard Isaac  
President  
Khepera Charter School

November 1, 2004

Re: Khepera School  
Investigation of Incident of 9/28/04

Dear Mr. Isaac:

Pursuant to your request, we have conducted an investigation of an incident which occurred in the cafeteria (sometimes referred to as the "cafeterium", since it also functions as an auditorium) of the Khepera Charter School on September 28, 2004 involving Ms. Carrie Bailey and a third grade student. We write to report our findings.

We attempted to interview all of the eyewitnesses except the children. A number of the people we interviewed, who were identified to us as possible witnesses, were not in the cafeteria when the incident took place, though some of them heard noises or heard talk in the aftermath of the incident. We did identify seven adults who were in a position to have observed the incident, but of those three, (a teacher, and two parents, ) refused to answer our questions saying they did not want to "get involved." In addition, one other potential witness, a construction contractor at the school, claimed that he did not observe the incident and that he was working on the other side of a doorway and only looked in on occasion.

The three remaining witnesses, Ms. Bailey, her sister Rachel Randolph, and a bus driver, , each recount a different version of the crucial aspect of the incident, though they agree generally as to the events that led up to the incident.

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It appears that a group of children had been unruly on school bus that morning. reports that this had been a continuing problem. On the day in question, he became "fed up" and he reported the problem to Ms. Bailey. Ms. Bailey asked him to identify the problem children, take them to the cafeteria, and write them up. The problem children continued to be unruly and at least one of them, was eating popcorn or drinking soda despite being told not to. Ms. Bailey responded by taking the food away. At this point, the versions of the witnesses begin to differ significantly.

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Ms. Bailey claims that when she tried to take popcorn away, he struck her on her temple. She responded by attempting to restrain him and went to grab him by his shoulders. She says that as she did so, she slipped and fell because the floor was wet



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from the rain. She insists that she did not choke him. Though she originally reported that the other children began hitting her at this time, she now says that she did not recall this, but only reported it because she was told that they did. She claims that [redacted] did not fall.

Ms. Randolph recounts that [redacted] hit Ms. Bailey in the temple when she tried to get him to stop yelling obscenities. She says that Ms. Bailey then slipped and fell forward to the floor. Ms. Randolph thinks that Ms. Bailey blacked out. She says that [redacted] slipped and fell also, and that while Ms. Bailey was on the floor, other children punched her on the back while she was trying to get up. She claims that Ms. Bailey did not touch [redacted].

The bus driver, [redacted], states that he had his head down because he was writing up the students and he looked up when he heard noises that sounded like a fight. He observed [redacted] and Ms. Bailey standing and facing each other and [redacted] was yelling at Ms. Bailey. [redacted] then hit Ms. Bailey. Ms. Bailey then dropped her tablet and "grabbed him around the neck." Once this happened, other children started hitting her on the back in order to get Ms. Bailey off of [redacted]. Neither Ms. Bailey nor [redacted] fell. There were two other adults in the room (he is likely referring to the [redacted]) and the man came over and broke up the fight. Afterwards, [redacted] showed him a small mark on his neck. We interviewed [redacted] a second time and he clarified that he observed Ms. Bailey choking [redacted].

As Ms. Bailey and Ms. Randolph have obvious reasons to be biased and since there are significant inconsistencies in their versions of the incident, there are substantial reasons to disbelieve their stories. [redacted], on the other hand, is an unbiased witness who, during the interview, did not appear to have an agenda or any motivation to distort the events he observed. He did not take up for the children stating that they were bad, but referring to Ms. Bailey, he said that "there is something wrong with her too." This comment was based not just on the incident of September 28, but also on his observations of how she has acted with parents and children in the past.

In conclusion, it appears that Ms. Bailey did, in fact, choke [redacted]. Though it is clear that [redacted] was out of control and provoked a reaction, Ms. Bailey's response was also out of control and well out of proportion to the provocation, particularly when considering that [redacted] is only eight years old. It also concerns us that Ms. Bailey and [redacted]



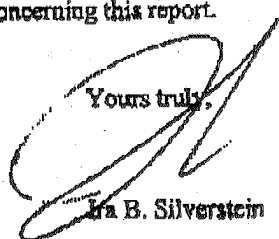
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her sister have falsely described the incident, and though they saw fit to call the police, did not report the incident to the School's board of directors.

Please let us know if you have any questions concerning this report.

Yours truly,



Ira B. Silverstein

IBS/sdd