

Deposition Transcripts Excerpts Pertaining to November 4, 2004 Termination Letter

February 3, 2006

Witness: Board President

Q. You guys met, all four board members and (investigative attorney) met at your house. You discussed the investigative report? You discussed whether or not to terminate or to place Mrs. Bailey on official leave, right; you discussed those things?

A. Yes.

Q. Then a letter was drafted and signed by you; right?

A. I already said yes.

Q. On the same night?

A. On the same night as what?

Q. That you met. You met on or around November 2nd, but on November 4th this letter was drafted and signed; right?

A. Yes.

Q. Now, my question to you is that the statements in this letter, do they represent official policy of the school?

A. No.

Q. So even though the letter says, termination of employment, officially she was not terminated right?

A. Right.

DEFENSE ATTORNEY. Make sure to speak up and speak clearly.

WITNESS. Correct.

Q. The letter also says, "After several lengthy discussions with legal counsel and the School District of Philadelphia, the Khepera Board of Trustees has determined that your employment with Khepera Charter School is terminated at the close of school business on Thursday November 4, 2004."

That was not official policy; right?

A. That did not take place.

Q. Was it the policy?

A. No.

Q. Okay. "We are requesting that you surrender all records, keys and other related school information immediately to (the president)."

Was that determination, was that a policy of the school?

DEFENSE ATTORNEY. As of November 4th?

PLAINTIFF ATTORNEY. Yes.

Q. As of November 4th.

A. I don't understand when you say, "was that the policy."

Q. It was a group of board members who decided that; right?

A. That that would be the course of action, that she would be dismissed.

Q. That that is the course of action as of November 4th. A group of you decided that. That's why the letter was drafted; right?

A. Right.

Q. So since this letter has no official sanction -- is what I am hearing you say -- she was not terminated? She was not put on administrative leave? I want to know as far as a board member, from the Board's perspective, whatever was put in this letter, was it the official decision of the Board on that day of November 2nd or did somebody just make a mistake?

DEFENSE ATTORNEY. I am going to object to the form. I am confused because you are asking multiple part questions. One, is did the Board vote to terminate on November 2nd. The second thing you are asking is, was each sentence of the letter specifically sanctioned by the Board of trustees. You are asking all of these compound questions.

PLAINTIFF ATTORNEY. He already said there was no vote.

DEFENSE ATTORNEY. Correct.

PLAINTIFF ATTORNEY. So I am not asking that.

DEFENSE ATTORNEY. Every question that you are asking when you say, "was this the official decision," is assuming facts that you stated that are not on the record.

PLAINTIFF ATTORNEY. No. I am not assuming. He said there was no vote, that it is some sort of a consensus, whether it was a head nod or whatever, he said there was no vote.

I think it is very important to ask the question: Whether or not the Board stands behind what is stated in this letter. That is basically what I am trying to do.

DEFENSE ATTORNEY. As of November 4th?

PLAINTIFF ATTORNEY. As of November 5th.

DEFENSE ATTORNEY. As of November 5th?

PLAINTIFF ATTORNEY. Right.

Q. Let me ask it this way: Was it the intention of the Board that a letter such as this (indicating) be drafted with the language that is used?

A. It was the intention of the Board that a letter be drafted. The language thereof was not clear. We put something together, and then we checked with our attorney.

Q. Then somebody typed it up?

A. Yes.

Q. You signed it?

A. Yes.

Q. After reading it?

A. Yes.

Q. The day you put your signature on here (indicating), that is what I want to know. I am not trying to badger you. I just want to know, did you consider this to be an official act?

DEFENSE ATTORNEY. Objection. Asked and answered.

PLAINTIFF ATTORNEY. I do not think it was answered. It may have been asked, but I do not think it was answered. If it was, I would like to hear the answer again.

WITNESS. State the question again?

Q. The day you put your signature on this document (indicating), did you consider what was stated in this document to be an official act of the Board?

A. Yes.

Q. You considered your signature being an official act as the chairman of the Board to validate?

A. Yes.

Witness: Board Member 2

Q. I am going to show you this letter (indicating), which, again, is attached to the complaint, Exhibit B. Take a look at that and tell me if you can identify it.

A. (Witness complied.) Yes.

Q. You knew that letter had been drafted by the Board and signed by (the president)?

A. I knew it was drafted. I knew it was signed, but I wasn't aware of that date on the letter.

Q. You were aware that it basically purports to terminate Mrs. Bailey's employment with the school, not administrative leave but termination?

A. I can see that now.

Witness: Board Member 3

Q. Now, there was a letter that we were talking about earlier that went out on November 4, 2004. I want to show you a copy of that letter, Exhibit B attached to the complaint.

A. (Witness complied.)

Q. Have you ever seen that before (indicating)?

A. I don't recognize it.

Witness: Board Member 4

Q. Was a letter from the Board and signed by the Chair issued that you know of dated November 4, 2004?

A. Yes, there was.

Q. Did that letter have anything to do with what the Board had determined at that meeting on the 2nd?

A. I didn't see the letter, so, its exact contents, I am not aware of.

Q. You never saw the letter?

A. No, I did not. I never saw it.

Q. Did you know the letter went out?

A. Yes. I was told by the Chair that the letter went out.