



## **Travel of the Case**

On December 11, 2006 counsel for Bethany St. Pierre filed an appeal with Commissioner Peter McWalters from the November 29, 2006 decision of the Smithfield School Committee. The Committee had determined, by a vote of four to one, that certain facts existed to support a finding that there was just cause to terminate her as a tenured teacher at Smithfield High School. The undersigned was designated to hear and decide this matter and an acknowledgment of the appeal, with suggested hearing dates was sent on December 20, 2006. The original dates offered were not convenient for either of the parties, and thereafter the hearing was scheduled by agreement of the parties. This matter received extensive hearing on ten different dates and concluded on June 27, 2007 at which time counsel for both parties presented closing arguments. Thereafter, the parties submitted written memoranda summarizing their positions and legal arguments. The record in this matter closed on July 11, 2007, with the exception of one exhibit<sup>1</sup>.

## **Issues:**

- I. Does the doctrine of collateral estoppel preclude the relitigation of certain issues and require the hearing officer to adopt certain facts established in the district court when criminal charges against Ms. St. Pierre were dismissed?
- II. Is a de novo review of the Smithfield School Committee's decision limited to the reasons and supporting facts set forth in the Committee's decision of November 29, 2006?
- III. Has the Smithfield School Committee proven that good and just cause supports its termination of Ms. St. Pierre?

---

<sup>1</sup> The status of one proposed exhibit, S.C. Ex. 26 (Ms. St. Pierre's statement to the police on September 30, 2006), was deferred until the hearing officer's review of the record. Introduction of the statement would be consistent with other rulings on the introduction of witnesses' prior statements, per Rule 801(d)(1). It would also be consistent with Rule 801(d)(2). However, all of the other prior written statements were authenticated by the witnesses themselves while testifying or were introduced without objection. Ms. St. Pierre was never asked to verify that proposed S.C. Ex. 26 was in fact a true and accurate copy of a statement that she gave to the police on that date, and her counsel has objected to its introduction. Without proper authentication, his objection must be sustained.

## **Findings of Relevant Facts:<sup>2</sup>**

- Bethany St. Pierre was employed by the Smithfield school department as a tenured teacher of social studies, teaching American history and civics. She had been employed at Smithfield High School for six years. Tr.4/26/07 p.84; Joint Ex.A.
- On September 11, 2006 Ms. St. Pierre was joking with students in her American history class, and, on the students' request, demonstrated a trick that she had performed on six or seven prior occasions on a student who had volunteered for the demonstration. The trick consisted of creating the illusion of stapling a student's head. On this occasion, however, instead of falling harmlessly into the student's hair, the staple pierced his scalp. Tr. 2/27/07 pp.35-46, 97, 141; Tr. 4/26/07 pp. 95-104.
- Ms. St. Pierre did not intend to pierce the student's skin with the staple and had no intent to harm him in any way. Her intent was to create the illusion of stapling him and for the staple to fall in his hair, as it had on the six or so previous times she had performed the trick. Tr. 4/26/07 p.97
- In the short period of time it took Ms. St. Pierre to walk from the student's desk at the back of the room to her desk and then to the teacher's table at the front of the room where she had been teaching the class, the student on whom the stapler trick had been demonstrated started to bleed, and a line of blood extending down the side of his face was seen by other students, who then alerted Ms. St. Pierre. Tr.4/26/07 pp. 104-106.<sup>3</sup>
- Ms. St. Pierre quickly went over to the student but could not see where the blood was coming from. Tr. 2/27/07 p. 58. She was shocked and could not understand how the trick could have resulted in an injury. Tr.4/26/07 p.109.
- After wiping the blood from the student's face with a paper towel and receiving his assurance that he was all right, Ms. St. Pierre told the student to go to the bathroom to clean the area. Upon his return from the lavatory a short time later, the student was no longer bleeding and again assured Ms. St. Pierre that he was "fine". Tr. 2/27/07 p.50, 190; Tr.4/26/07 p.109. At the end of the class approximately twenty (20) minutes later, Ms. St. Pierre again checked in with the student and asked him again if he was all right. He indicated that he was. Tr.4/26/07 pp.111-113.
- During the time in which the student was in the lavatory and the class was "somewhat chaotic" - and she was in a state of panic- Ms. St. Pierre indicated to the students that

---

<sup>2</sup> Many of the facts on which evidence was submitted by the School Committee touched upon matters not referenced in the School Board's November 29, 2006 decision. Counsel for Ms. St. Pierre made timely objection to such evidence based on relevance. Submission of the evidence was permitted, subject to later opportunity to review the documentation accompanying Ms. St. Pierre's termination in light of the parties' arguments.

<sup>3</sup> This fact was uncontroverted and confirmed by all the witnesses who testified. Many students who were in the classroom were called as witnesses and on many of the other details regarding this incident their testimony diverged.

they should stop discussing the incident and not tell anyone about it.<sup>4</sup> S.C.Ex.18, 27,28 & 29; Joint Ex.G. 11/27/06 pp.13-14; Tr. 4/26/07 p. 171; 5/3/07 pp.9-10.

- Ms. St. Pierre did not send the student to the nurse's office for examination or treatment. She did not think that the injury required medical attention. Tr. 4/26/07 pp.107-109.
- Ms. St. Pierre did not report the incident to school administrators because she didn't think the situation warranted it. Tr. 4/26/07 pp.113-114.
- On or about September 21, 2006 the student's mother became aware of the incident, and notified school officials. Following an investigation and hearing, Ms. St. Pierre was terminated. Tr. 2/28/06 p.175; Joint Ex. G & H.
- Bethany St. Pierre had no prior disciplinary history. Joint Ex.G 11/27/06 pp.128-129.
- Ms. St. Pierre's formal evaluations by the Smithfield school department indicate that she was an excellent teacher. Joint Ex.A. She regularly put in extra time to assist students before and after school, as well as during her free period during the school day. Joint Ex. G 11/27/06 pp.161-171, 178-179.
- Prior to her termination, Ms. St. Pierre was a popular and well-liked teacher among both students and colleagues. Joint Ex. G 11/27/06 pp. 130-131.
- The student involved in this incident felt "like a sharp pain" when Ms. St. Pierre pressed the stapler and the staple went into his head. Tr. 2/27/2007 p.97, 189. After he pulled the staple out of his scalp, he felt blood "bubble up and drip down his face". Tr. 2/27/07 p.99; Almost immediately thereafter, he had a headache<sup>5</sup> that was relieved later that afternoon when he went home and took an aspirin. Tr. 2/27/07 pp.100-101, 171, 200; Joint Ex.G 11/27/06 p.51; He has not experienced any pain since that day (Tr. 2/27/07 p.108) and has not ever sought medical treatment (2/27/07 pp.173, 200).

---

<sup>4</sup> The evidence as to what specific language Ms. St. Pierre used varied a great deal. At least two students testified that Ms. St. Pierre made no statement to the class about keeping the incident quiet. A close review of the extensive and conflicting evidence on this point leads to our conclusion that she told the class essentially to keep the matter "within the classroom". Our finding is based on Ms. St. Pierre's own statements on this point as recorded and recollected by the principal, Mr. Kelley and assistant principal Mr. Tenreiro, both of whom investigated the matter as soon as it came to light.

<sup>5</sup> The student also testified on cross examination that he had a headache on September 11, 2006 *prior* to the stapling incident (Tr. 2/27/07 p. 115). It is not clear whether he was confused on this point. (Tr.2/27/07 p.199)

## Positions of the Parties

### Bethany St. Pierre

Counsel for Bethany St. Pierre initially challenges the assumption that it was Ms. St. Pierre who actually caused the staple to penetrate the student's head by getting too close. Her attorney points to evidence which would suggest that she actually performed the stapling illusion trick on September 11, 2006 in the same way she had on prior occasions and that the staple initially did fall harmlessly into the student's hair. Counsel directs the hearing officer to testimony that other students were then "fishing" trying to locate the staple in the boy's hair and that one of these other students actually pulled the staple out. Counsel argues that one of these other students in particular, who is a known prankster, actually pushed the staple in, casting doubt on the testimony from the student involved that he felt pain at the precise moment that Ms. St. Pierre pressed on the stapler. Also supporting this theory of the facts is the consistent testimony of virtually all of the witnesses that the student upon whom the trick was demonstrated was laughing and joking the entire time, that he had no visible reaction at the time Ms. St. Pierre pressed on the stapler, even asking "have you done it yet?" after the trick was completed. In addition, the student alleged to be responsible for pushing the staple in after Ms. St. Pierre walked away avoided being interviewed about the incident by the police, suggesting that he sought to hide his own culpability.<sup>6</sup>

Assuming, arguendo, that Ms. St. Pierre caused the staple to eject from the stapler while performing a trick for the students and that it accidentally penetrated the head of the student volunteer, she argues that certain facts about the incident should reflect those found in a previous decision of the District Court. Counsel for Ms. St. Pierre submits that the doctrine of collateral estoppel should preclude the School Committee from relitigating certain issues determined in Ms. St. Pierre's favor. In the criminal proceeding, the district court dismissed the simple assault charge that had been filed against Ms. St. Pierre after the judge heard the state's case.<sup>7</sup> The judge made certain findings of fact in her decision. Counsel argues that collateral estoppel precludes the Smithfield School Committee from relitigating these facts in this proceeding and that they should be adopted by the hearing officer. These facts would establish that Ms. St. Pierre had no intent to hurt the student or to harm him in any way.

Other facts in the record must be disregarded in considering whether the School Committee has established a sufficient basis for termination. The School Committee's case must be limited to the reasons clearly stated in the termination decision of November

---

<sup>6</sup>He left school early, without permission, prior to his scheduled interview. This same student was also identified as the one who initially suggested that Ms. St. Pierre demonstrate the trick, declined to be the volunteer himself, and encouraged his friend to volunteer for the demonstration. Although this student did evade the interview scheduled by the state police, he was interviewed by school administrators on September 21, 2006. At that time he reportedly stated that Ms. St. Pierre put the stapler directly on the student's head and "tapped on it lightly". S.C. Ex. 18 and 28. Neither of the parties called this student as a witness at the hearing in this matter.

<sup>7</sup> See the Appellant's Motion for Application of the Doctrine of Collateral Estoppel and supporting memorandum dated February 19, 2007.

29, 2006 and the facts cited in support of those reasons. To do otherwise, and to consider allegations, facts and reasons that are not described in the School Committee's written decision would violate principles of constitutional due process and the procedural requirements of the teacher tenure law. Counsel for the Appellant argues that the School Committee has attempted to sweep into this record additional reasons that it did not state and facts upon which it did not rely on in terminating Ms. St. Pierre. The Committee seeks to raise additional misconduct it now claims constitutes "conduct unbecoming a teacher", an umbrella term used in its written decision of November 29, 2006. To do so would violate Ms. St. Pierre's statutory and constitutional rights. It would also impair Ms. St. Pierre's ability to effectively challenge the basis of the action taken against her.

Counsel examines each of the four factual allegations contained in the School Committee's decision in depth and argues that the evidence in the record does not substantiate the allegation or, if proven, the conduct was appropriate under the circumstances. The memorandum submitted on the Appellant's behalf also addresses other conduct brought into issue by evidence in the record, primarily actions cited in the Superintendent's September 29, 2006 letter. It is argued that these other allegations are resurrected unfairly since the School Committee did not rely on them in its decision. These other matters are raised now to buttress the reasons stated by the Committee in its written decision, because those reasons are insufficient to justify Ms. St. Pierre's termination, her counsel argues.

Counsel argues that expert testimony presented on the School Committee's behalf should be stricken. Neither of the experts expressed their opinion (that Ms. St. Pierre's conduct was inappropriate and that her termination was warranted) with a "reasonable degree of certainty" as required by Rhode Island law. If admissible at all, the testimony of both of these experts should be given little weight because each of them, for different reasons, was biased in favor of the Smithfield School Committee. One of them was actually an employee of the Smithfield School Department and the other has had a long-term professional and, arguably, social relationship with representatives of the Committee. For these reasons, as well as others set forth in the Appellant's memorandum, the opinion evidence offered by the School Committee should be disregarded.

On the merits of this case, counsel for Ms. St. Pierre submits that dismissal of Ms. St. Pierre is not supported by good and just cause and that termination is an excessive penalty. In the history of this issue before the Commissioner and Board of Regents, "just cause" has consistently involved some sort of bad faith on the part of the teacher, not simply poor judgement. In the recent case of Proto v. Providence School Board<sup>8</sup>, the Commissioner overturned the discipline imposed on a teacher who had exercised poor judgment and placed a student in an inappropriate restraint, with a resulting injury to the student. The Commissioner concluded that the matter was an unfortunate accident in which the teacher had no intent to hurt the student. In this case, Ms. St. Pierre was demonstrating a trick in a jovial setting with students. She was attempting to "energize" them by doing the unexpected. Her experience was that bonding activities were helpful in engaging even the more difficult students. In retrospect, she admits that the stapling trick was not a good

---

<sup>8</sup> Decision of the Commissioner dated January 27, 2006.

choice. If it did result in a minor injury to this student (and she argues that it is more likely that it was caused by another student) this was completely unintended. Her judgement that medical attention and a report to school officials were unnecessary was reasonable, given that the student had stopped bleeding and said he was fine. If she was wrong, her counsel argues, she is guilty of poor judgment. Bethany St. Pierre is an excellent teacher with an unblemished record. Her termination is not warranted.

### Smithfield School Committee

School officials performed a thorough and reliable investigation of an incident brought to their attention for the first time on September 21, 2006. Because Ms. St. Pierre did not dispute any of the operative facts when she was interviewed by the principal, there was no reason for school officials to interview each and every student in the class. The recommendation that followed was well-founded and deliberate, not a “rush to judgment” as is argued by the Appellant. Notice of the Superintendent’s recommendation and the reasons for it were clearly communicated to Ms. St. Pierre in the letter of September 29, 2006. As outlined in that letter, the Superintendent’s recommendation was based on the following facts: that Ms. St. Pierre had permitted students to get off task in the classroom, she had solicited lunches from other students to encourage a student to participate in a stapling trick, that she injected a staple into the student’s scalp and then attempted to cover-up the incident. The Superintendent included in his September 29, 2006 letter the concerns that he had and explained the reasoning for the recommendation he planned to make to the School Committee. The basic fact – that Ms. St. Pierre had “stapled” a student – was not in controversy at that time. Throughout the entire investigation process Ms. St. Pierre did not suggest that any other individual was responsible for the stapling of the student and the injury that had resulted.

The “alternative theory” of causation, i.e. that another student actually pushed the staple into the “volunteer’s” head, was presented for the first time in this hearing, the School Committee submits. It is argued to be indicative of Ms. St. Pierre’s ongoing refusal to accept responsibility for her actions on that day. Substantial eyewitness evidence presented by the School Committee establishes that Ms. St. Pierre placed a stapler directly on the student’s head, pressed on it, and caused the staple to be injected into the student’s scalp. Counsel argues that the act was intentional, with an unintended result (see page 19 of the School Committee’s July 11, 2007 memorandum<sup>9</sup>).

The precise issue of Ms. St. Pierre’s intent continues to be a point for resolution in this controversy. Smithfield argues that the findings of the judge who dismissed the criminal charge against Ms. St. Pierre are not entitled to preclusive effect in these proceedings. The district court’s conclusion that Ms. St. Pierre had no intent to have the staple make contact with the student is not binding here, the Committee submits. The Committee’s full response to the Appellant’s collateral estoppel argument is set forth in the Memorandum in support of its written Objection, dated February 26, 2007. Essentially, the Committee argues that the ruling of the District Court was dispositive only of Ms. St. Pierre’s criminal liability and that the issues and burden of proof in such a determination

---

<sup>9</sup> See also Joint Ex. G, Tr. 11/27/06 p.6

were substantially different from those involved here. The School Committee was not a party, or in privity with a party, to those proceedings. The factual findings in this case, the Committee submits, must be based exclusively on the evidence submitted at this hearing and should not be constrained by the findings in another forum.<sup>10</sup>

The factual allegations forming the basis of the Committee's position that it had good and just cause to dismiss this tenured teacher have been proven by a preponderance of the evidence, submits counsel. It has been established that Ms. St. Pierre engaged in "all of the activities complained of" (page 11 of its memorandum). In addition, because this is a very unusual case, the Committee has provided expert testimony explaining why her conduct in its entirety was inappropriate and arguably harmful to all the students in the class. The Committee alleges that the poor judgment demonstrated by Ms. St. Pierre on September 11, 2006 was compounded by her attempt to prevent her employer from finding out what had happened. This incident was very serious and constituted a breach of trust. Despite the fact that she had no prior disciplinary record, the Committee takes the position that her conduct is not remediable and that she does not have the exemplary record of teaching performance she claims to have. Her termination was therefore an appropriate sanction and should be upheld by the Commissioner, the Committee submits.

### **DECISION**

In cases in which the Commissioner is called upon to conduct a de novo hearing on the issue of a tenured teacher's termination, the inquiry is not open-ended, but rather follows the reasons and supporting facts identified by a school committee in its own decision in the matter. In this case, the Appellant argues that the Smithfield School Committee has submitted evidence of facts which are not referenced in the Committee's November 29, 2006 decision and has essentially advanced reasons it did not rely on when it made its decision. Counsel for the Appellant argues that this process violates Ms. St. Pierre's due process rights, since it prevents her from knowing precisely what charges she would be responding to in presenting her case to the Commissioner. Her contention does not focus so much on a lack of specificity of the charges against her, but rather that the Committee has attempted to expand its case at this level by characterizing previously-unmentioned matters as "conduct unbecoming a teacher" which is cited as a basis for her termination by the School Committee. Her counsel argues that the School Committee must be restricted to the reasons stated in its November 29, 2006 decision and limited to proof of those facts cited by the Committee as supporting its findings. We agree that due process and fundamental fairness require that a de novo "review" be limited to the reasons and facts relied on by the School Committee – it is that decision that is subject to review, not a

---

<sup>10</sup> The School Committee, however, sought to have the hearing officer take notice of adjudicative facts under Rule 201 of the Rules of Evidence. The request was to take administrative notice of the decision of a referee in the Department of Labor and Training in a case involving Ms. St. Pierre. Tr. 3/22/07 pp. 4-10. The hearing officer ruled that doing so would essentially be according the decision (and the factual findings in that forum) collateral estoppel effect and declined to take administrative notice. A distinction was also drawn between "adjudicative" facts and "adjudicated" facts. Tr. 3/22/07 pp. 13-20.

different decision based on other unstated facts and later-developed reasons.<sup>11</sup> It is this decision of which Ms. St. Pierre was notified and on which her counsel relied in preparing the evidence he would present to the Commissioner on her behalf.

In this case, the School Committee seeks to present reasons and facts stated in the September 29, 2006 letter of the Superintendent *as well as* those included in the November 29, 2006 decision of the School Committee. For the reasons stated herein, it is the School Committee's decision (Joint Ex. H) on which we must focus. Our determination is whether or not the conduct cited there<sup>12</sup> has been proven on the record at this hearing<sup>13</sup> and whether that conduct constitutes just cause for termination<sup>14</sup>. As our findings of relevant facts indicate, the Smithfield School Committee has proven, by a preponderance of the evidence, that Ms. St. Pierre:

...positioned a stapler at or near a 10<sup>th</sup> grade student's head and pushed the stapler, ejecting the staple. The staple did penetrate the scalp of the student and when removed from his head, caused a stream of blood running down the side of his face. (She) then obtained a paper towel, gave it to the student and directed the student to the men's bathroom to clean up...Once the student had left the room, Ms. St. Pierre requested that the class not report or discuss the incident. Ms. St. Pierre failed to require that the student report to the nurse for an examination or care. Additionally, Ms. St. Pierre failed to report the incident to either the Principal or the Superintendent of Schools. (See S.C. Ex. H, decision of the Smithfield School Committee "Facts")

Although it is certainly possible, as Ms. St. Pierre contends, that another student pushed the staple in after it initially fell harmlessly into the hair, on this record the

---

<sup>11</sup> See Hobson v. South Kingstown School Committee, April 4, 1988; Richardson v. Providence School Board, May 25, 2005; Farias v. Providence School Board, November 22, 2006; Proto v. Providence School Board, January 27, 2006. In a de novo hearing the parties are free to and generally do bring in additional and different proof of the facts that have been placed in issue. Many times the record before a school committee is minimal and the evidence before the Commissioner is somewhat more voluminous, as in this case.

<sup>12</sup> The Committee heard testimony with respect to a more serious allegation that Ms. St. Pierre told the injured student not to go to the nurse and not to tell his parents what had happened. The Committee evidently concluded that Ms. St. Pierre did not make such statements. See its decision of November 29, 2006. If this allegation were fairly at issue in this hearing, we would draw the same conclusion, i.e. that she did not make those statements.

<sup>13</sup> Ms. St. Pierre's motion for application of the doctrine of collateral estoppel is denied. The arguments presented by the School Committee in its written objection to the motion (set forth with specificity above) are persuasive. The findings of fact in this case have been based on the evidence submitted in this record and not constrained by findings made by the court in dismissal of the criminal complaint against Ms. St. Pierre.

<sup>14</sup> The conduct described in the November 29, 2006 decision is alleged to constitute two separate grounds for termination - one being "just cause" and the other "conduct unbecoming a teacher". We interpret the reference in R.I.G.L. 16-12-6 to "conduct unbecoming a teacher" as an example of just cause as it relates to a special dismissal process applicable to the school committees of Woonsocket and Cumberland. We do not view "conduct unbecoming a teacher" as dispensing with the requirement that there be just cause for termination of a tenured teacher. "Conduct unbecoming a teacher" would therefore be a legal basis for termination only to the extent such conduct rises to the level of "just cause" or "good and just cause" as required by R.I.G.L. 16-12-6 and 16-13-3.

preponderance of the evidence is that it was caused by Ms. St. Pierre's pushing on the stapler. The argument that Ms. St. Pierre's act was intentional – that she intended to have the staple touch this student's head or insert the staple in his scalp is specifically rejected. We find, as the Superintendent conceded on cross examination (Tr. 3/27/07 pp.59-60, 87-88), that the insertion of the staple in the student's scalp was purely accidental. Her intent was to perform an illusion of stapling the student – not to actually staple him. To the extent the decision of the School Committee implies that this was not an accidental injury, this decision overrules that finding. Testimony indicated that Ms. St. Pierre took a creative approach to teaching, and that she tried to make her lessons fun for students. This activity was clearly different from all of the other creative activities she described, and from a common-sense standpoint, was inappropriate.<sup>15</sup>

Ms. St. Pierre's failure to send the student to the nurse was extremely poor judgment on her part. Upon her determination that he was, according to her own testimony, inexplicably bleeding from his head, her decision to send him to the lavatory to clean up was not consistent with his personal safety. At that time the nature and extent of his injury had not been determined by Ms. St. Pierre or any other adult in the building. While it is true that the student had stopped bleeding and assured everyone he was fine when he returned to the classroom, good judgment would have required some verification of that fact – that he be sent to the nurse or, in the alternative, notification given to his parents so that they could seek whatever medical care they deemed appropriate. The evidence is that the injury to this student was not serious. The point is that it could have been.

Ms. St. Pierre's failure to send the student to the school nurse for assessment, coupled with her failure to notify the principal or any other member of the school administration of what happened, unnecessarily transformed an accident into an incident. The lack of notice to school administrators put the district at a serious disadvantage in responding to the mother's complaint<sup>16</sup> some ten days later. Instead of being able to follow up appropriately on timely notice of an accident involving a student and a teacher, the district administrators were put in a position of "investigating an incident" – dispelling the notion<sup>17</sup> that one of its employees had intentionally injured a student. In the days that followed this incident sound judgment would have required Ms. St. Pierre to bring the matter to her principal's attention so that the district's interests, as well as her reputation, could be protected.

Based on this analysis<sup>18</sup> we find that the School Committee has established that Ms. St. Pierre had lapses in judgment which were sufficiently serious to constitute good and just cause for termination. We feel constrained to point out that the Committee was not

---

<sup>15</sup> Expert testimony on this point was not necessary.

<sup>16</sup> There is an inference created in the record that the student's family has a claim pending against the district as a result of this incident, and the student's private attorney accompanied him as he testified in the hearing in this matter.

<sup>17</sup> Created by an "illusion" which became reality

<sup>18</sup> Which is different from that of the Smithfield School Committee. The Committee emphasized the lack of connection to pedagogy of bonding strategies, the riskiness of the stapling trick, and significantly, the alleged intent of Ms. St. Pierre to staple this student.

required to terminate Ms. St. Pierre, and could have chosen to impose a long term suspension. In fact, a witness testifying as an expert on the School Committee's behalf paused for a short but significant time before responding to the question of whether, in his opinion, her conduct warranted termination. After hesitation, he replied, "...Something had--something-- there had to be some consequence". Although the expert then went on to indicate that in his opinion her termination was supportable (See Tr.3/14/2007 pp.136-147), his testimony validated a less drastic sanction. Ms. St. Pierre is a very good teacher who had no prior disciplinary issues. In light of this evidence and the testimony of the Committee's own expert, we have closely scrutinized the Parties' arguments with respect to the obligation of the district to utilize progressive discipline. We find that although it is not likely that the conduct at issue here would ever be repeated and that, if retained Ms. St. Pierre would continue to be an excellent teacher, her relationship with district administrators has been irreparably affected. For this reason, and because it has demonstrated good and just cause, the decision of the Smithfield School Committee is sustained.

The appeal is denied and dismissed.

For the Commissioner,

\_\_\_\_\_  
Kathleen S. Murray, Hearing Officer

APPROVED:

\_\_\_\_\_  
Peter McWalters, Commissioner

\_\_\_\_\_  
February 6, 2008  
Date