

STATE OF RHODE ISLAND
COMMISSIONER OF EDUCATION

KEVIN DUBOIS,

Appellant,

vs.

NORTH KINGSTOWN SCHOOL
COMMITTEE,

Appellee

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RIDE No. 25-19A

SUPPLEMENTAL DECISION AND ORDER

Held: The School Committee's motion for a stay pending its appeal of the Commissioner's decision reversing its decision to suspend without pay, and then to terminate, a teacher's employment, is denied due to the Committee's failure to establish a likelihood of success on appeal, and the parties having failed to reach agreement on the issue of discipline, the recommendation of the Assistant Superintendent to, *inter alia*, suspend the teacher without pay for two weeks, is adopted.

September 2, 2025

The Commissioner issued a Decision and Order on April 4, 2025 (the “Decision and Order”) reversing and vacating the March 12, 2025 decision of Appellee, NORTH KINGSTOWN SCHOOL COMMITTEE (the “School Committee”), to suspend without pay the employment of Appellant, KEVIN DUBOIS (“Mr. Dubois”), as a tenured teacher at Davisville Middle School (“DMS”), for the remainder of the 2024-2025 school year, and then to terminate his employment with the School District. A copy of the Decision and Order is attached as Exhibit A and hereby incorporated by reference.

The conduct which prompted the School Committee’s decision to terminate Mr. Dubois’ employment consisted of his calling a student a “stringbean”, telling her to “eat a hamburger”, and making innocuous physical contact with the student in a hallway that was captured on video. *See* Decision and Order at 3. After a *de novo* evidentiary hearing, the School Committee was ordered to forthwith: (1) reinstate Mr. Dubois as a tenured teacher at DMS, with the credit for the seniority he would have obtained had he not been suspended and dismissed; (2) provide him with a teaching assignment comparable to the assignment that he had prior to his suspension and dismissal as soon as practicable; and (3) pay him the salary and benefits he would have received had he not been suspended and dismissed *from the date of this decision going forward*. *See id.* at 16. In addition, the Decision and Order provided that the parties were to use their best efforts to reach agreement as to whether or not some discipline short of termination should now be imposed consistent with the Decision and Order, and the amount of back pay, if any, to which Mr. Dubois was entitled. Failing an agreement, the Decision and Order provided that Commissioner would hear and decide these remaining issues on an expedited basis. *See id.*

On August 25, 2025, the School Committee filed an appeal of the Decision and Order with the Council on Elementary and Secondary Education. A copy of the appeal is attached as

Exhibit B. In addition, the parties reported that they were unable to reach agreement as to whether or not some discipline short of termination should be imposed or the amount of back pay, if any, to be awarded, and thus these issues also will be addressed here.

I. THE MOTION TO STAY PENDING APPEAL

1. The Applicable Legal Standard

The *Procedural Rules for Appeals to and Hearings before the Commissioner*, 200 RICRI-30-15-4, the relevant provisions of the Administrative Procedures Act, R.I. Gen. Laws §§ 42-35-9 through 42-35-15, and of the Teachers' Tenure Act, R.I. Gen. Laws §§ 16-13-4 and 16-13-5, are all silent as to the criteria applicable to the consideration of motions for stays pending appeal. Thus, the Commissioner looks to analogous state law.

Rule 8 of the Supreme Court Rules of Appellate Procedure provides that "application for a stay of enforcement pending appeal, or for an order suspending, modifying, restoring, or granting an injunction during the pendency of an appeal, must ordinarily be made in the first instance in the trial court." *Id.* at (a). Moreover, in *Narragansett Electric Co. v. Harsch*, 117 R.I. 940, 942–43, 367 A.2d 195, 197 (1976), the Court held that the party seeking a stay pending appeal must make a "strong showing" that:

- (1) The party will prevail on appeal.
- (2) The party will suffer irreparable harm if the stay is not granted.
- (3) No substantial harm will come to the other interested parties if such stay is granted.
- (4) A stay will not harm the public interest.

Id. In addition, since Rule 8 was patterned after its federal counterpart, the Rhode Island Supreme Court "looks to federal cases for guidance with respect to the decision whether to grant a stay," *id.* (citing David A. Wollin, *Rhode Island Appellate Procedure*, § 8.3 at 8–5 (West 2004)), and the First Circuit has held that:

‘The first two factors “are the most critical.”’ *Id.* (quoting *Nken*, 556 U.S. at 434, 129 S.Ct. 1749). ‘It is not enough that the chance of success on the merits be better than negligible. ... By the same token, simply showing some possibility of irreparable injury fails to satisfy the second factor.’ *Id.* (alteration in original) (quoting *Nken v. Holder*, 556 U.S. 418, 434-35 (2009)). A stay ‘is not a matter of right, even if irreparable injury might otherwise result to the appellant.’ *Nken*, 556 U.S. at 427 (quoting *Virginian Ry. Co. v. United States*, 272 U.S. 658, 672 (1926)).

Does 1-3 v. Mills, 39 F.4th 20, 24-25 (1st Cir. 2022); *see also Town of North Kingstown v. Int’l. Assoc. of Firefighters*, 65 A.3d 480, 481 (R.I. 2013) (“[A]lthough all four of the above-referenced factors should be considered, ‘[they] are not prerequisites that must be met, but are interrelated considerations that must be balanced together.’”).¹ Finally, the First Circuit has held that:

in determining the likelihood of the Agency’s success in this appeal requires us to determine the likelihood that the district court itself erred in issuing a preliminary injunction. To the extent the district court’s ruling rested on findings of fact, we defer to those findings absent clear error; we review any questions of law *de novo*, without deference.

District 4 Lodge of the Int’l Assoc. of Machinists and Aerospace Workers Local Lodge 207 v. Raimondo, 18 F.4th 38, 42-43 (1st Cir. 2021), citing *Swarovski Aktiengesellschaft v. Bldg. No. 19, Inc.*, 704 F.3d 44, 48 (1st Cir. 2013).

2. The Arguments of the Parties

a. The School Committee’s Argument in Support of the Motion

In its three-page Memorandum in Support of its Motion to Stay (the “School Committee Mem.”), the School Committee argues, without benefit of citation to the record below, that its motion should be granted since: (i) it will prevail on the merits. *See* School Committee’s Memorandum at 1-2; (ii) the Decision and Order “ignores the great trauma Student S. suffered.” *See id.* at 2; (iii) the “School District, its students, educators, and community will face irreparable

¹ Citing *Service Employees International Union Local 1 v. Husted*, 698 F.3d 341, 343 (6th Cir.2012).

harm if the stay of Decision is denied.” *Id.* at 2-3; and (iv) granting the stay is in the public interest. *Id.* at 4.

b. Mr. Dubois’ Argument in Opposition

In his Memorandum in Opposition (the “Dubois Mem.”), Mr. Dubois argued that the motion to stay should be denied because the School Committee will not likely prevail on the merits of its appeal since: (i) “[t]he School Committee [did] not even argue that Mr. Dubois had any improper motive. *Id.* at 5; (ii) the Committee’s decision was “entirely influenced by the . . . fallout . . . by the most recent occurrences within the North Kingstown School Department; to wit, the issues and resulting ramifications from the Aaron Thomas (“Thomas”) debacle.” *Id.* at 3-4;² and (iii) there was no competent evidence that Student S. suffered emotional distress. *Id.* at 3. In addition, Mr. Dubois argued that the School Committee’s claims of irreparable harm “are speculative and implausible at best. *Id.* at 9.

3. The Decision

The School Committee has presented no new evidence, nor even cited to the record below, to refute the Commissioner’s conclusions, below, that:

- (a) “There was not a scintilla of evidence even suggesting that Mr. Dubois had any improper motive other than to, as he testified, use what he viewed as humor to ‘bridge that nervousness gap’ between himself and Student S.” Decision and Order at 13 (citing the transcript of the June 5, 2025 hearing (the “Tr.”) at 123);
- (b) “[T]he videotapes (School Committee Exhibit 8 and 9) evidence that the physical contact between Mr. Dubois and Student S. was as brief (lasting a few seconds) as it was innocuous.” *Id.*;
- (c) “[I]f anything . . . the fact that ‘North Kingstown was recently embroiled in an intense, public, and deeply traumatizing situation’ . . . is evidence that [the School Committee] was unfairly biased.” *Id.* at 14; and

² The reference to the “Aaron Thomas debacle” refers to the case of former teacher and basketball coach Aaron Thomas, who was recently found guilty of two counts of misdemeanor battery by a jury in Superior Court. *See* Decision and Order at 14, n. 8.

- (d) “[T]here was no competent evidence that any conduct of Mr. Dubois caused Student S. “great emotional stress.” *Id.* at 14 and note 9.

Thus, the School Committee has failed to meet its burden of establishing that it will succeed on the merits of its appeal, and since that represents one of the two “most critical” factors when deciding motions for stays pending appeal, *see supra* at 3 (quoting *Mills*, 39 F.4th at 24-25), the School Committee’s motion to stay must be denied. Moreover, as noted by Mr. Dubois, “[t]he potential irreparable harm alleged by the Committee is not “presently threatened or imminent” and is “merely speculative.” Dubois Mem. at 10.

II. DISCIPLINE AND BACK PAY

The parties have failed to agree as to: “(i) whether or not some discipline short of termination should be imposed,” and (ii) “the amount of back pay, if any, to which Mr. Dubois is entitled.” Thus, the issues having been fully addressed by the parties below, the issues will now be decided by the Commissioner, as per the express terms of the Decision and Order. *See id.* at 16.

As noted below, on November 7, 2024, Mr. Dubois was placed on paid administrative leave while the allegations against him were investigated by Assistant Superintendent Robert Mezzanotte (“AS Mezzanotte”), and following his investigation, AS Mezzanotte recommended to the School Committee that:

- (1) Mr. Dubois will be suspended for 2 weeks, without pay.
- (2) Mr. Dubois will complete a mandatory training focused on proper conduct and sensitivity towards students.
- (3) Mr. Dubois will be placed on a Performance Improvement Plan, effective immediately. The Improvement Plan will include participation in professional learning activities tied to maintaining appropriate boundaries with students and establishing positive relationships.
- (4) A copy of this letter will be placed in Mr. Dubois’ personnel file, and will remain there permanently.

See id. at 4 (quoting the November 15, 2025 report of AS Mezzanotte).

In addition, it also was noted below that “AS Mezzanotte testified that he had been a building administrator for fourteen (14) years, an assistant principal and principal, and had conducted ‘dozens’ of similar investigations. *See id.* at 3, note 1 (citing Tr. at 59-60, 61-62). Thus, the November 15, 2025 report of his investigation into the allegations against Mr. Dubois, and his recommendation to the School Committee are entitled to some degree of deference. *See, e.g., Narragansett Elec. Co. v. Carbone*, 898 A.2d 87, 95 (R.I. 2006) (citations omitted) (“[T]he question of whether a witness is qualified to express an expert opinion is a matter that is committed to the sound discretion of the trial justice. . . and even when no motion is made before the lower court to qualify a witness as an expert, a trial justice nonetheless may have treated that witness as an expert”). \

Finally, the School Committee has not presented a cogent refutation of the sensible recommendations contained in the November 15, 2025 report of AS Mezzanotte.

III. ORDER

For all the above reasons:

1. The School Committee’s Motion for a Stay Pending Appeal is hereby denied;
2. The April 4 Decision and Order attached as Exhibit A is hereby amended as to back pay and to incorporate the recommendations contained in the November 15, 2025 report of Assistant Superintendent Robert Mezzanotte, but shall otherwise remain in full force and effect; accordingly,
3. Mr. Dubois shall be paid the salary and benefits he would have received had he not been suspended and dismissed, from the date his salary and benefits were discontinued by the School Committee to the present; provided, however, that while being reinstated and reimbursed,
4. Mr. Dubois also shall: (a) be suspended for 2 weeks without pay, at such time as the School Committee shall determine; (b) complete a mandatory training focused on proper conduct and sensitivity towards students; and (c) be placed on a Performance Improvement Plan, effective immediately, which shall include

participation in professional learning activities tied to maintaining appropriate boundaries with students and establishing positive relationships; and

5. A copy of this Supplemental Decision will be placed in Mr. Dubois' personnel file and remain there permanently.


ANTHONY F. COTTONE, ESQ.,
as Hearing Officer for the Commissioner


ANGÉLICA INFANTE-GREEN,
as Commissioner of Education

Dated: September 2, 2025

EXHIBIT A

STATE OF RHODE ISLAND
COMMISSIONER OF EDUCATION

KEVIN DUBOIS,

Appellant,

vs.

NORTH KINGSTOWN SCHOOL
COMMITTEE,

Appellee

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RIDE No. 25-19A

DECISION AND ORDER

Held: School Committee's decision to suspend without pay and then terminate a teacher's employment is reversed, and the teacher is reinstated as the Committee failed to prove that its decision was supported by the "good and just cause" required under the State's Teacher Tenure Act.

August 4, 2025

On April 1, 2025, Appellant, KEVIN DUBOIS (“Mr. Dubois”), a tenured teacher at Davisville Middle School (“DMS”), filed an appeal with the Commissioner pursuant to the Teacher Tenure Act (the “Tenure Act”) with respect to the March 12, 2025, decision of Appellee, NORTH KINGSTOWN SCHOOL COMMITTEE (the “School Committee”), to suspend him without pay for the remainder of the 2024-2025 school year, and then to terminate his employment.

I. Jurisdiction, Burden of Proof and Standard of Review

The Commissioner’s jurisdiction here is provided under the Tenure Act, which makes clear that “[a]ny teacher aggrieved by the decision of the school board [or committee] shall have the right of appeal to the department of elementary and secondary education . . .” R.I. Gen. Laws § 16-13-4(a).

It also is clear that the burden of proof is upon the School Committee. *See Hobson v. Rhode Island Bd. of Regents for Elementary and Secondary Educ.*, 1998 WL 726655 (Superior Court, September 29, 1998) (Needham, J.) at 3 (burden of proof must be met by a school committee defending its termination of a tenured teacher); *Clifford v. Board of Regents*, 1987 WL 859783 (Superior Court, April 20, 1987) (Caldarone, J.) at 3 (burden of proof on school committee to provide that bona fide financial exigency justified teacher terminations); *Botelho v. Providence School Board*, RIDE (July 25, 2007) at 8 (“the burden is on the School Board to prove its allegations by a preponderance of the evidence and substantiate that ‘good and just cause’ supports the termination.”).

Finally, as the Court held in *Jacob v. Board of Regents for Ed.*, 117 R.I. 164, 171, 365 A.2d 430, 434 (1976), “[t]he hearing before the commissioner is *de novo*.” *Id.* And as the Court noted in *Greenhalgh v. McCanna*, 90 R.I. 417, 421, 158 A.2d 878, 880 (1960), hearing a case *de*

novo means hearing it “as if no [proceeding] whatever had been had . . . below.” *Id.*

II. Facts

The following facts were deduced from testimony provided during the evidentiary hearing on June 5, 2025 before the undersigned Hearing Officer, who was appointed by the Commissioner pursuant to the Tenure Act, as well as from the exhibits that were entered into evidence in the course of the hearing and the parties’ post-hearing memoranda.

1. On November 6, 2024, Assistant Superintendent Robert Mezzanotte (“AS Mezzanotte”) received an email from the parent of an Eighth Grade Student in Mr. Dubois’s English class at DMS (“Ms. S.” and “Student S.,” respectively). Ms. S. alleged in the email that Mr. Dubois had: (a) referred to Student S. as a “string bean” and told her to “eat a hamburger”; (b) approached Student S. and “kicked her in the butt”; and (c) “ran up behind her in the hallway “to scare her and put [his] hands on her shoulders.” *See* School Committee Exhibit 1 at 4.

2. The alleged physical contact between Mr. Dubois and Student S. occurred at DMS on November 6, 2024, and was captured on two videos that were introduced into evidence. *See* School Committee Exhibits 8 and 9.

3. According to Ms. S., Student S. “had significant issues . . . concerning her weight and her being underweight for a very long time. It’s something she has worked on with a therapist . . .” Transcript of the June 5, 2025 hearing (the “Tr.”) at 50.

4. Mr. Dubois did not have Student S. in a class prior to the 2024-2025 school year, although he had met with Ms. S. during a regularly scheduled parent-teacher conference a day or two prior to the incidents in question. Yet, Mr. Dubois was not informed that Student S. was struggling with weight issues during his conference with Ms. S. and had no prior knowledge of the issue. *See* Tr. at 112.

5. On November 7, 2024, Mr. Dubois was placed on paid administrative leave while the allegations were investigated by AS Mezzanotte.¹

The Investigation, Report and Recommendation of the Assistant Principal

6. On November 15, 2024, AS Mezzanotte issued a report of his investigation and concluded that:

The video evidence reveals that the student’s reports about physical contact with the teacher were accurate. Both incidents took place on Wednesday, November

¹ AS Mezzanotte testified that he had been a building administrator for fourteen (14) years, an assistant principal and principal, and had conducted “dozens” of similar investigations. *See* Tr. at 59-60, 61-62.

6th. The first was during a locker break in between classes. At approximately 1:34 pm, the student is squatting next to her locker when Mr. Dubois walks by her, leans over as if to say something, then lightly kicks her on her backside before walking away. At approximately 3:48 pm, Mr. Dubois is seen walking down the hallway, and the student and her friend are walking towards him in the opposite direction. As they approach each other, the student leans away from Mr. Dubois. He leans in towards her, and then as she walks away with her friend he turns, walks towards the students, and puts his hands on her shoulders from behind her.

Id. at 5.

7. In his November 15, 2025 report, AS Mezzanotte opined that:

Based on the results of the investigation, it is clear that Mr. Dubois engaged in inappropriate behavior that fell far short of the professional standards expected of teachers. In the Rhode Island Professional Teaching Standards, Standard 6 states the following: *‘Teachers create a supportive learning environment that encourages appropriate standards of behavior, positive social interaction, active engagement in learning, and self-motivation.’* Under this standard, it is stated that *‘Teachers establish a safe, secure and nurturing learning environment that supports the active engagement of all students.’*

Id. at 6 (emphasis in original).

8. Finally, AS Mezzanotte recommended to the School Committee that:

- (a) Mr. Dubois will be suspended for 2 weeks, without pay.
- (b) Mr. Dubois will complete a mandatory training focused on proper conduct and sensitivity towards students.
- (c) Mr. Dubois will be placed on a Performance Improvement Plan, effective immediately. The Improvement Plan will include participation in professional learning activities tied to maintaining appropriate boundaries with students and establishing positive relationships.
- (d) A copy of this letter will be placed in Mr. Dubois’ personnel file, and will remain there permanently.

Id.

Mr. Dubois’ Unrefuted Testimony

9. Mr. Dubois described his teaching style as “boisterous, active, loud and over-the-top,” adding that he was “a dramatic kind of English teacher and [has] been for over 20 some years” who routinely used humor in his teaching and interaction with students. *See* Tr. at 107-110; 123-124.

10. The following explanation by Mr. Dubois explaining his alleged reference to Student S. as a "string bean" and his comment that she should "eat a hamburger" was unrefuted:

For about a month, maybe even a month and a half, the entire school had been engaged in collecting cans of beans for the local food bank, and it's something we do every year. Last year was turkey gravy. This year, it was green beans and string beans, et cetera . . . So like, everybody around the school had been talking about beans, beans, beans for like a month. You know, and people can colorize the commentary however they wish, but like, when I looked at her, and I'm like, 'Hey, I'm just concerned you don't look so good there, string bean.' You know, I think maybe, I'm a coach, let me just tell you from coaching football, like protein. Like, you need some lean protein, some red meat, like eat a hamburger at lunch today, you know. And then she responded, 'I don't really like hamburgers.' And I was like, okay. 'And if you want to go to the nurse, please let me know.' Okay. And that was kind of the end of the conversation, because other kids were coming in at that point, and so we just moved on and started class.

Id. at 112.

11. In the following colloquy between Mr. Dubois and his lawyer, Mr. Dubois described the alleged "kick in the butt," testimony that also was not refuted:

A I was returning from a team meeting the previous period at the other end of the building. I knew there was only a couple of minutes before class started. So as I was coming down the hall, I was remarking to a number of students, 'Come on guys, let's go. We only got a couple of minutes left.' And as I came by her, she turned and looked at me, and so --

Q Now, when you say she looked at you, did she give you a signal, did she do something, like did --

A Yeah. She turned and just kind of went like with a peace sign, I guess, like, hey.

Q Okay. And that's in the video?

A Yes.

Q Okay.

A Uh-hum.

Q And what happened next? Did she say anything, by the way, when she gave you the --

A She might have said hi.

Q Okay. All right. But you don't recall?

A I don't recall.

Q All right. And what happened next?

A So as I went by her, I leaned down and said, 'Hey, we're both going to be late for class. Let's go.'

Q Okay. And at that point what, if anything, did you do with your foot?

A So I meant to signal like, come on, let's go, I'm going to have to, you know, give you a kick, let's get moving.

Q And you actually gave her a little kick?
 A Yes.
 Q Okay. And where did you make contact?
 A I thought I kicked her in the shoe because of the way she was bent down. I just, you know, went to go like that, and to give her even just that little tap, like, come on, let's go.
 Q Okay. And the way she was facing, is it possible that when you did that, that your leg or your shin or something also made contact with her butt, as I indicated?
 A I suppose it could have, yes.
 Q Okay. And did she say anything, did you say anything at that point?
 A No.

Id. at 121-122.

12. The following is Mr. Dubois' unrefuted description of the alleged "hands on Student S.'s shoulders":

A I was . . . returning from the science room where Homework Club for eighth graders was going on. I don't run it this year. I have in the past. But I frequently will stop in before leaving for the day and check in with kids and see if they have any questions about work before I go home. So I was returning from there, and I saw Students S. coming with another student from somewhere. Didn't see her at Homework Club. So as I saw her, I thought, you know, I'm going to, one last time I'm going to joke with her and send her home, you know, maybe thinking that things are going to be a little ice breaker different with us. And so I go, 'Oh, there is my favorite devil,' you know, trying to use some humor and some verbal irony, which is what I tried all year to teach them with other lit terms. And she kind of looked at me, and I thought now, like she was getting it, like she was like playing back with me when she looked at me and kind of smiled. And so I was like, 'There we go.' And that's why when I came up behind her, I'm, like, 'All right. Buses are coming. Don't be late. Let's go.' And I like did a little drum on her backpack. And then she was like, 'Ha ha.' And then she, you know, went down the hallway. And I didn't even look back. I just, you know, it was, like, I'll see you later, and kept going.
 Q Okay. And now, did you grab her shoulders, as has been indicated at times?
 A No.
 Q And the video shows what it shows, correct?
 A Yes.
 Q And it shows you drumming on the backpack?
 A Yes.

Id. at 126-27.

13. Mr. Dubois' testimony as to his motive for engaging in the cited conduct was similarly unrefuted:

Well, the entire thing is that when Mom made me aware of her [Student S.'s], you know, her reticence, I was, like I have for many years, used my humor and my personal approach to a student at their locker, or at lunch, or after school, to try to bridge that nervousness gap, or that reticence gap, or that not loving ELA class or school in general kind of gap. And so I try to find them outside of class and show that I don't only care when they're in my room, that I will find them at lunch, I will find them at their sporting events, I will find them at their locker, you know, during the course of the day and make a joke, or ask how they're doing, or make conversation, or whatever it may be. And that's all I was really attempting to try to do.

Id. at 123.

The Response of the School Committee

14. On January 14, 2025, the School Committee wrote Mr. Dubois and informed him that the Committee had met in executive session on November 25, 2024, and "after hearing a presentation from both the Administration as well as your Union representative, the Committee voted 5-0 to terminate your employment with the District." *See* School Committee Exhibit 1 at 1.

15. In its January 14, 2025 letter, the School Committee informed Mr. Dubois that the School Committee had made the decision to terminate his employment:

... based upon the video evidence reviewed (your representative was present for this) as well as Mr. Mezzanotte's findings which were wholly accepted by the Committee (attached hereto). The Committee also noted that your behavior violated Committee policies, including Committee Policy GBEBB [Professional Conduct with Students Policy]. These violations included but are not limited to:

1. Video evidence clearly demonstrates unwanted physical contact with a student (foot to the rear end and hands on shoulders).
2. Video evidence clearly demonstrates the student trying to avoid interacting with you in the hallway, yet your behavior and physical interaction with the student continued.
3. You comment on a student's physical appearance, making that student uncomfortable.
4. The student reported that your name calling and physical interactions made her uncomfortable
5. The entire staff, yourself included, recently received Title IX training, yet your actions entirely contradict that training.

Id.

16. However, the School Committee also noted that because Mr. Dubois's Union had "raised procedural concerns with respect to their belief that a second 'pre-termination' hearing was required because the committee had voted to terminate instead of to suspend," the Committee, while disagreeing with the Union's position, nonetheless conducted a pre-termination hearing on January 6, 2025. *Id.*

17. After listening to presentations from both the Administration and the Union on January 6, 2025, the School Committee "once again voted, unanimously, to suspend [Mr. Dubois] without pay for the remainder of this school year and to terminate [his] employment effective at the commencement of next school year, and noted that "their decision was also based on above-listed findings." *Id.*

18. On January 15, 2025, Mr. Dubois exercised his right under the Tenure Act and requested a full evidentiary hearing before the School Committee pursuant to R.I. Laws §§ 16-13-2 and 16-13-4. The Committee conducted such a hearing on March 12, 2025.

19. By letter dated March 25, 2025, the School Committee advised Ms. Dubois that "after hearing the evidence presented by the parties at the hearing, the full Committee voted 5-0 to uphold its earlier decision to suspend your employment without pay for the remainder of the 2024-2025 school year and to terminate your employment commencing next school year." *See* School Committee Exhibit 6.

20. As noted, on April 1, 2025, Mr. Dubois filed an appeal with the Commissioner pursuant to Tenure Act with respect to the School Committee's March 12, 2025 decision. *See* Appellants' Exhibit 1.

The Years of Service, Past Discipline and Letters of Support

21. Mr. Dubois has been employed as a teacher in North Kingstown for some twenty-five (25) years and has received numerous extracurricular appointments and been active in the community.²

22. Mr. DuBois has had two prior conduct violations, in 2010 and 2014. *See* School Committee Exhibits 2 and 3.³

² The extracurricular appointments include serving as a Summer School Teacher, Homework Club Coordinator/Facilitator, Teacher Mentor, Language Arts Curriculum Coordinator, After School Academic Resource Tutor and ELA Leader. *See* Appellants' Exhibit 6. Additional extracurricular and/or community activities include work for Read Across America, Pennies for Patients, Spring concerts, faculty/student volleyball Tournaments, spelling bees, Climate Committee, field trips, homeroom breakfasts, pancake breakfasts, North Kingstown Food Bank, Rhode Island Tar Heels Elite Football Organization and BBQ Scholarship Fundraisers. *See* Appellants' Exhibit 7.

³ Thus, a letter was placed in his file on December 28, 2010 memorializing that he: (a) told a class of students to "Get the hell out of here"; (b) picked up discarded paper and threw it back at students who had missed the trash; and (c) threw pens out of a classroom window in an attempt to gain student attention. *See* School Committee Exhibit 2. And another letter was placed in his file on March 10, 2014, stating that he had requested that a school psychologist include certain of his comments (the nature of which was not described) in the minutes of an individualized education plan meeting. *See* School Committee Exhibit 3.

23. Some twenty-one (21) letters of support were submitted in support of Mr. Dubois and urging reversal of the School Committee's decision. Letters were submitted by fellow teachers and staff at DMS, *see* Appellant's Exhibit 8, as well as from the parent of former students, *see* Appellant's Exhibit 9(A), and the head of a community group. *See* Appellant's Exhibit 9(B).

III. Positions of the Parties

1. Mr. Dubois

In arguing that the School Committee had failed to establish the "good and just cause" necessary to terminate a tenured teacher under the Tenure Act, Mr. Dubois argued that:

- (a) Mr. Dubois was "the only witness who testified at the hearing with personal, first-hand knowledge of the facts and circumstances of this case and his testimony is uncontradicted" and "[o]ther than the comments to which Mr. Dubois admitted making on one occasion, the only direct evidence offered by the Committee in support of its decision to suspend and terminate Mr. Dubois' employment are the two (2) November 6, 2024 videos." Appellants' Post-Trial Brief at 16 (citing School Committee Exhibits 8 and 9);
- (b) Mr. Dubois' "only intentions and motivation in jokingly making physical contact with Student S. was to use humor 'to try to bridge the nervousness gap, or the reticence gap [with her]... during the course of the day' after Student S' mother told him that Student S. was nervous in his class. He did not intend to embarrass Student S. and/or make her feel uncomfortable or hurt or harm her in any way. '[Dubois] was just trying to make light of this thing and show [Student S.] that [he is] not [a]... mean or intimidating individual. [He] was trying to make light of it, have her see that ... he's a perfectly fine person. You know, [her] nervousness was not based on anything.' *Id.* at 18 (citing Tr. at 123-124);
- (c) "A careful review of this video (School Committee Exhibit 9) illustrates that Dubois did not grab or touch the shoulders of Student S. Instead, he jokingly 'drummed' on her backpack because he 'thought at that point [Student S.] kind of got what [he] was trying to do, which was just to try to get her to not see [him] in whatever light her mom had mentioned', but instead, as 'a guy who's goofy, a guy who's loud and boisterous, a person who cares about his kids and loves a good joke.'" *Id.* at 19 (citing Tr. at 126-128 and School Committee Exhibit 9);
- (d) "Dubois has openly admitted to making mistakes in his interactions with Student S. and has consistently expressed remorse and accepted responsibility

for the incidents and his comments.” *Id.* at 16 (Citing Tr. at 108-109, 124, 130-131 & 145-147);⁴

- (e) The School Committee failed to prove that the alleged conduct “demonstrated a lack of fitness to teach” and therefore was insufficient grounds for termination as a matter of law. *See id.* at 20 (Citing *Community College*, 85 LA 687, 690 (Goldberg, 1985);
- (f) Contrary to the conclusion of the School Committee, Mr. Dubois did not violate Rhode Island Professional Teaching Standard 6, which provides that “teachers establish a safe, secure and nurturing learning environment that supports the active engagement of all students”, but rather “Mr. Dubois was merely attempting to use humor . . . to comply with Standard 6.” *See id.* at 21-22;
- (g) Any alleged “impact” and/or “effects” of the alleged conduct upon Student S. are irrelevant as they were not relied upon by the School Committee. *See id.* at 26-27;
- (h) The facts of this case are unlike those in *Bamberg v. Providence School Board*, RIDE No. 105-14 (September 25, 2014), where a teacher ignored an “unequivocal written directive” from her employer and “... engaged in a physical altercation to forcibly remove a student from her classroom”, *see id.* at 32-33 (citing *Bamberg, supra*, at 15-16), or *St. Pierre v. Smithfield School Committee*, RIDE No. 005-08 (February 6, 2008), which concerned a teacher who pierced a student’s head using a stapler, *see id.* at 34-35 (citing *St. Pierre, supra*, at 2), but rather more resemble the facts in *Fielding v. Tiverton School Committee*, RIDE No. 17-001 (July 17, 2017), where a teacher, obviously joking with a student, “grabbed a student’s ankle and dragged her ten to fifteen feet toward the door of the classroom.” *See id.* at 38-39 (citing *Fielding, supra*, at 4);
- (i) The Commissioner has cited cases from other jurisdictions with approval which stand for the proposition that there are “eight factors to be considered (if applicable) in determining if a teacher’s discharge is warranted,” including “extenuating or aggravating circumstances surrounding the conduct, the likelihood that the conduct may be repeated and the motives underlying the teacher’s conduct, none of which support the School Committee decision in this case, *see id.* at 39-42, (citing *Fielding, supra*, at 17);

⁴ And noting that Dubois testified that: (i) “[k]nowing everything we’ve discussed about [Student S.] and the things that have been brought to my attention about her and whatnot, I would say, yes, this was an epic fail on my part.” *Id.* at 16 (Quoting Tr. 145-146); and (ii) “[t]his type of thing, I will go out of my way to make darn sure will never ever happen again. And whatever way I need to do to be aware of things that I perhaps misjudged or misseen, [sic] to make sure that this kind of misjudgment does not ever happen again” *Id.* (Quoting Tr. 147).

- (j) The School Committee’s failure to present any first-hand evidence in support of its decision coupled with the fact that ‘throughout the entirety of this case, Student S. has never given her first-hand account and/or explanation of her allegations and the circumstances around Dubois’ comments and interactions with her . . . creates the presumption that the testimony, if produced, would be unfavorable’ under the ‘missing witness rule’ or the ‘empty chair doctrine.” *See id.* at 45-46 (citing, *inter alia*, *Graves v. United States*, 150 U.S. 118 (1893);
- (k) The School Committee failed to follow its own parent complaint procedures, which mandates that a complaining parent be provided with the option of participating in a parent-teacher conference. *See id.* at 48-49; and finally,
- (l) The School Committee failed to follow principles of progressive discipline, which would have taken into account the fact that “for twenty-five (25) years, Dubois has been an excellent and extremely effective teacher . . . as evidenced by Dubois’ outstanding evaluations, his students’ successful results on the 2023-2024 NECAP test, his numerous extracurricular appointments, and his active and extensive involvement in extracurricular school and community activities. *See id.* at 51-25 citing Petitioner’s Exhibits 4-7.

2. The School Committee

Arguing in support of its decision, the School Committee opined that:

- (a) “North Kingstown was recently embroiled in an intense, public, and deeply traumatizing situation regarding a former educator and sexual assault. The Department of Justice was in the District for over a year after the incident ensuring Title IX compliance, which resulted in numerous policy revisions and professional development trainings for staff, students, and parents . . . The District’s recent events, documented on virtually every state media outlet, and implications thereof, remained top of mind for the [School Committee] when determining how to handle DuBois’ actions and employment.” *See* School Committee’s Post-Hearing Brief at 2-3;
- (b) “. . . adequate good and just cause existed for termination when considering the environment in the District at the time of DuBois’ conduct coupled with his defiance of conduct standards and professional development trainings.” *Id.* at 2;
- (c) “Mr. Dubois made comments to the student, referencing her body type, which caused the student great emotional distress” in violation of the North Kingstown School Committee Professional Conduct with Students Policy, and “inappropriately touched Student S. on two separate occasions.” *See id.* at 4;

- (d) Mr. Dubois “has had two prior conduct violations, one of which involved using vulgar language and throwing papers at students. His record is clearly not unblemished.” *See id.* at 5; and finally,
- (e) “There is no Rhode Island case law or statute that requires the North Kingstown School Committee to defer to a school administrator’s discipline determination.” *See id.* at 6-7.

IV. Decision

This case, like almost all teacher dismissal cases under the Tenure Act, poses two distinct questions. First, did the School Committee comply with the Tenure Act’s procedural dictates and afford the teacher his or her constitutional right to procedural due process?⁵ And second, did the School Committee meet its burden of proving that its decision to terminate the teacher’s employment was supported by the “good and just cause” required under the Act? If the answer to either question is in the negative, an appropriate remedy must be fashioned.

Here, the answer to the first question is not in dispute, and so this case hinges on whether the School Committee met its burden of proving “good and just cause,” a burden which, as will be discussed, the School Committee did not come close to meeting.

The Tenure Act, which provides that “no tenured teacher in continuous service shall be dismissed except for good and just cause,” R.I. Gen. Laws § 16-13-3(a), also provides that a “statement of cause” must be provided to the teacher, “in writing.” R.I. Gen. Laws § 16-13-4(a). Here, the statement of cause cited: (1) the video evidence, which “clearly demonstrates unwanted physical contact with a student”; (2) the admitted “comment on a student’s physical appearance, making that student uncomfortable”; and (3) the fact that “the entire staff, yourself included,

⁵ In addition to the due process mandated under the Tenure Act, the Due Process Clauses of the Fourteenth Amendment to the United States Constitution, and Article I, Section 2 of the Rhode Island Constitution provide that: “[n]o person shall be deprived of life, liberty or property without due process of law.” *Id.* And in *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 541 (1985), the United States Supreme Court held that a security guard and bus mechanic employed by two boards of education had a property right in their continued state employment and thus could not be deprived of this right “except pursuant to constitutionally adequate procedures.” *Id.*

recently received Title IX training, yet [Mr. Dubois'] actions entirely contradict[ed] that training." See § II, ¶¶ 15, 19, *supra* (quoting the January 14, 2025 and March 25, 2025 letters from the School Committee). And although the Rhode Island Supreme Court has not defined the phrase "good and just cause," other jurisdictions have explained that "the term [good and just cause] includes 'any cause which bears a reasonable relation to the teacher's fitness or capacity to discharge the duties of his position.'" *Kilpatrick v. Wright*, 437 F. Supp. 397, 400 (M.D. Ala. 1977) (quoting *Faircloth v. Folmar*, 252 Ala. 223, 40 So.2d 697 (1949)).⁶

Significantly, Mr. Dubois was the only witness who testified at the hearing with personal, first-hand knowledge of the facts and circumstances of this case, *and his testimony was uncontradicted*. There was not a scintilla of evidence even suggesting that Mr. Dubois had any improper motive other than to, as he testified, use what he viewed as humor to "bridge that nervousness gap" between himself and Student S. See § II, ¶ 13, *supra*. Indeed, AS Mezzanotte testified that "the contents of the video was sufficient to be able to render a judgment on the conduct of Mr. Dubois," and thus he did not even bother to interview the student who was right next to Student S. in the hall when one of the incidents occurred. See Tr. at 70. Yet, the videotapes (School Committee Exhibit 8 and 9) evidence that the physical contact between Mr. Dubois and Student S. was as brief (lasting a few seconds) as it was innocuous.⁷

⁶ See also *School Committee of Foxborough v. Koski*, 391 N.E.2d 708, 709 (Mass. App. Ct. 1979) (good and just cause is "any ground which is put forward by the committee in good faith and which is not arbitrary, irrational, unreasonable, or irrelevant to the committee's task of building up and maintaining an efficient school system"); *Ellenburg v. Hartselle City Board of Education*, 349 So.2d 605, 609 (Ala. Civ. App. 1977) ("good cause" in a teacher tenure statute "is by no means limited to some form of inefficiency or misconduct on the part of the teacher dismissed, but includes any ground put forward by a school committee in good faith and which is not arbitrary, irrational, unreasonable, or irrelevant to the committee's task of building up and maintaining an efficient school system.").

⁷ The contact in the hall captured at 1:33 p.m. (Exhibit 8) can hardly be called a "kick," and in fact, Student S. initiated the contact with Mr. Dubois by giving him a peace sign. Moreover, it does not appear from a careful review of the second video captured at 3:48 p.m. (Exhibit 9) that Mr. Dubois even made any contact with Student S.'s shoulders, but rather playfully tapped on her backpack as she walked by with another student.

The School Committee does not even argue that Mr. Dubois had any improper motive. Instead, it justifies its decision to reject the recommendation of AS Mezzanotte and end Mr. Dubois' twenty-five year career with the District by emphasizing that: (a) "North Kingstown was recently embroiled in an intense, public, and deeply traumatizing situation regarding a former educator and sexual assault." *See* School Committee's Post-Hearing Brief at 2-3⁸; (b) "Mr. Dubois made comments to the student, referencing her body type, which caused the student great emotional distress." *See id.* at 4; and (c) Mr. Dubois "has had two prior conduct violations, one of which involved using vulgar language and throwing papers at students." *See id.* at 5; *see also* § II, ¶ 22, *supra*.

However, the fact that "North Kingstown was recently embroiled in an intense, public, and deeply traumatizing situation" does not change the standard to be applied by its School Committee when evaluating whether there is "good and just cause" to terminate a teacher's employment. The fact that the School Committee argues to the contrary is, if anything, evidence that it was unfairly biased.

Moreover, there was no competent evidence that any conduct of Mr. Dubois caused Student S. "great emotional stress."⁹ Neither Student S. nor any of her treating physicians or therapists testified as to any such effect, and her mother did not address the issue in her testimony. Of course, according to Mr. Dubois, the impact upon Student S. is not even relevant,

⁸ Although it was not specifically referenced, the reference to a "deeply traumatizing situation regarding a former educator" refers to the case of former teacher and basketball coach Aaron Thomas, who was recently found guilty of two counts of misdemeanor battery by a jury in Superior Court. *See* Eli Sherman and Tim White, *Aaron Thomas not guilty of sex crimes, convicted of battery in 'naked fat test' trial* (WPRI.com12, May 19, 2025) (available at <https://www.wpri.com/target-12/aaron-thomas-trial-verdict/>).

⁹ By contrast with the claim in its Post-Hearing Brief that Student A. experienced "great emotional distress," in its Statement of Cause the School Committee merely stated that Mr. Dubois' comments made Student S. "uncomfortable." *See* § II, ¶ 8, *supra*.

see Appellant’s Post-Hearing Brief at 26-27, but the relevance issue need not be addressed in the absence of any evidence on the issue.

Finally, while prior discipline can be relevant when considering whether there is “good and just cause” to support a teacher termination, *see, e.g., Fielding, supra*, at 16 and n. 20, in this case, the prior discipline was so remote in time and of such a minimal character, *see* § II, ¶ 22 and note 3, *supra*, it cannot alone satisfy the School Committee’s burden of proof.

Of course, calling a student a “stringbean”, telling her to “eat a hamburger”, and making physical contact with the student in a hallway (however innocuous it may be) was insensitive and is hardly appropriate conduct for a teacher. Indeed, Mr. Dubois has expressly recognized as much, characterizing his attempts to connect with Student S. as “an epic fail on my part” which he “will go out of [his] way to make darn sure will never ever happen again . . .” *See* Tr. at 146, 147. Misjudgments of this nature, however, while perhaps calling for some discipline, does not standing alone meet the “good and just cause” standard necessary to terminate a teacher’s employment, and the School Committee has not cited any legal authority to the contrary.

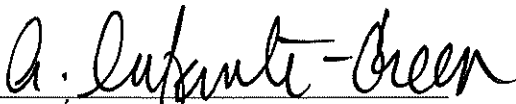
Finally, the recommendation to the School Committee by AS Mezzanotte that Mr. Dubois be suspended without pay for two (2) weeks in lieu of termination is not the subject of the instant appeal, which is limited to the March 12, 2025, decision of the Committee to suspend Mr. Dubois without pay for the remainder of the 2024-2025 school year, and then to terminate his employment. Thus, whether or not some discipline short of termination should, or legally could, now be imposed consistent with this Decision and Order is not now before the Commissioner.

V. Order

For all the above reasons:

1. The School Committee's March 12, 2025 decision to suspend Mr. Dubois for the 2024-2025 school year and then terminate his employment is hereby reversed and vacated;
2. The School Committee shall forthwith:
 - (a) reinstate Mr. Dubois as a tenured teacher at DMS, with the credit for the seniority he would have obtained had he not been suspended and dismissed;
 - (b) provide him with a teaching assignment comparable to the assignment that he had prior to his suspension and dismissal as soon as practicable; and
 - (c) from the date of this decision going forward, pay him the salary and benefits he would have received had he not been suspended and dismissed; and
3. The parties shall use their best efforts to reach agreement as to: (a) whether or not some discipline short of termination should now be imposed consistent with this Decision and Order; and (b) the amount of back pay, if any, to which Mr. Dubois is entitled, and failing agreement, the Commissioner will hear and decide these issues on an expedited basis.


ANTHONY F. COTTONE, ESQ.,
as Hearing Officer for the Commissioner


ANGÉLICA INFANTE-GREEN,
as Commissioner of Education

Dated: 3/4/2025

EXHIBIT B

STATE OF RHODE ISLAND
COUNCIL ON ELEMENTARY AND SECONDARY EDUCATION

KEVIN DUBOIS,	:	
<i>Petitioner;</i>	:	
	:	
vs.	:	
	:	
NORTH KINGSTOWN SCHOOL	:	(RIDE No. 25-19A)
COMMITTEE,	:	
<i>Respondent.</i>	:	

NORTH KINGSTOWN SCHOOL COMMITTEE'S
NOTICE OF APPEAL OF THE ABOVE DECISION

Now comes the North Kingstown School Committee (the "Committee") and, pursuant to 200-RICRI-30-15-4.4 hereby appeals the above-referenced Decision to the Rhode Island Council of Education. The Committee specifically appeals that portion of the Decision that found that the "School Committee's decision to suspend without pay and then terminate a teacher's employment is reversed, and the teacher is reinstated as the Committee failed to prove that its decision was supported by the 'good and just cause' required under the State's Teacher Tenure Act."

On Behalf of North
Kingstown School
Committee,

By and through its Attorney,

/s/ Andrew Henneous

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CERTIFICATION

I, the undersigned, certify that I caused a true copy of the within to be furnished to the Commissioner of Education, Hearing Officer Cottone, and Attorney John DeCubellis, via e-mail, on this 25th day of August 2025.

/s/ Andrew Henneous

Andrew Henneous, Esq.