

and specifically alleges that she did take reasonable effort to protect the student from conditions which interfere or are harmful to student's safety."

"WHEREFORE, Respondent requests that the Professional Practices Commission take such action regarding the certificate of the Respondent as is warranted and make a recommendation to the Board of Education accordingly."

On January 22, 2013, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing which was sent to the Respondent, and the Respondent's attorney, postage prepaid, and delivered by hand to the Petitioner's general counsel. The Notice of Hearing advised that a public hearing on the Petition would be held on March 23, 2013 commencing at approximately 11:00 a.m., in the State Board Hearing Room, 6th Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The Notice further advised that the hearing would be held before a designated hearing committee of the Commission, with Jeffery R. Kirkpatrick serving as legal counsel to advise the Chair in the performance of his duties.

The Petition and Answer came on for hearing at the above time and place before a Hearing Panel of the Commission consisting of Commission Members: Susan Anglemyer, Sarah Brown, Raymond Keller, Jodi Kupper, Brian Maher, Damon McDonald, Joy Schott, Cindy Serfass, Karen Shelton, and Jane Stavem. Commissioner McDonald served as Chairperson. The proceedings were reported by Wendy Cutting of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by Brian L. Halstead, General Counsel. The Respondent appeared with her attorney, Rick G. Wade. Exhibits and testimony were received in evidence and both attorneys made their closing arguments.

Thereupon, the Commission adjourned and deliberated based on the record before it, and makes the following Findings of Fact, Conclusions of Law, and Recommendation to the State Board of Education.

II. FINDINGS OF FACT

1. The Petitioner, Roger D. Breed, is the Commissioner of Education for the State of Nebraska; Respondent holds two public Nebraska certificates: (1) Standard Administrative Number 2012003639, endorsed as Principal PK-8, Elementary Education K-6, and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017; (2) Professional Teaching Number 2007003479, endorsed in Elementary Education K-6 and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017.

2. On or between April 18 and 24, 2012, the respondent failed to be truthful when questioned by administrators at the Millard Public Schools about a student's allergic reaction which occurred at school.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this case and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory Requirements.

2. The Petitioner has proven by a preponderance of the evidence that the Respondent committed an immoral act and an act of moral turpitude in violation of Neb. Rev. Stat. Section 79-866(2) (Reissue 2008) which, in part, states, "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board."; and has violated Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.02D (effective date: November 12, 2003), which states, "the educator: Shall not make any fraudulent statement or fail to disclose a material fact for which the educator is responsible"; Section 004.02H (same effective date) which states, "the educator: Shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation in the performance of professional duties"; Section 004.03C (same effective date) which states, "the educator: Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety"; and Section 004.04F (same effective date) which states, "the educator: Shall, with reasonable diligence, attend to the duties of his or her professional position."

IV. RECOMMENDATION

Therefore, the Commission respectfully recommends to the State Board of Education that the two public Nebraska certificates: (1) Standard Administrative Number 2012003639, endorsed as Principal PK-8, Elementary Education K-6, and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017; (2) Professional Teaching Number 2007003479, endorsed in Elementary Education K-6 and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017, belonging to Ann Gigstad be revoked for a period of one year.

Dated this 8th day of April, 2013.



Damon McDonald, Chairperson
Hearing Committee
Nebraska Professional Practices Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Recommendation for Case No. 12-08, was served upon Respondent, Ann Gigstad, by certified U.S. Mail, postage prepaid, and Respondent's attorney, Rick G. Wade, by U.S. Mail, postage prepaid, and delivered to Brian Halstead, attorney for the Petitioner, on this 12 day of April, 2013, at the following addresses.

Ann Gigstad
Respondent
P.O. Box 462
Red Oak, IA 51566

Brian L. Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

Rick G. Wade
Attorney for Respondent
605 South 14th Street, Suite 220
Lincoln, NE 68508



Kathi Vontz
Clerk of the Commission

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

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Roger D. Breed, Ed.D.)
Commissioner of Education)
301 Centennial Mall South)
P.O. Box 94933)
Lincoln, NE 68509-4933,)

Petitioner,)

vs.)

Ann Gigstad)
P.O. Box 462)
Red Oak, IA 51566)

Keri Watkins)
9421 Brentwood Drive, #29)
La Vista, NE 68128)

Respondents.)

TRANSCRIPT

VOLUME I of I
(Pages 1 through 61)

PPC Case No. 12-08
Case No. 12021
EXHIBITS 1-6

PPC Case No. 12-09
Case No. 12022
EXHIBITS 1-6

Nebraska State Office Building
301 Centennial Mall South
Department of Education Board Room
Sixth Floor
Lincoln, NE

Convened, pursuant to notice at 12:37 p.m., on
March 23, 2013,

BEFORE:

JEFFERY R. KIRKPATRICK, Hearing Officer.

COMMISSION MEMBERS PRESENT:

JANE STAVEM, Chairperson; DAMON McDONALD,
Presiding; SUSAN ANGLEMYER; SARAH BROWN; RAYMOND KELLER;
JODI KUPPER; BRIAN MAHER; JOY SCHOTT; CINDY SERFASS; and
KAREN SHELTON.

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OTHERS PRESENT:

KATHI VONTZ, Clerk of the Commission

- - -

A P P E A R A N C E S

For the Commissioner:

Brian L. Halstead, #18077
Assistant Commissioner/
General Counsel
Department of Education
301 Centennial Mall South
Sixth Floor
Lincoln, NE 68509

For the Respondents:

Rick G. Wade, #17820
Attorney at Law
605 South 14th Street
Suite 200
Lincoln, NE 68508

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I N D E X

WITNESSES:

Direct Cross Redirect Recross

Ann Gigstad 13 29 48 48

- - -

EXHIBITS for 12-08:

Marked Offered Ruled On Found

1 Pleadings (14 pages) 6 7 7 Appendix

2 Title 92, Nebraska
Administrative Code,
Chapter 27 (16 pages) 6 7 7 Appendix

3 Title 95, Nebraska
Administrative Code,
Chapter 1 (19 pages) 6 7 7 Appendix

4 Title 92, Nebraska
Administrative Code,
Chapter 28 (23 pages) 6 11 12 Appendix

5 Title 92, Nebraska
Administrative Code,
Chapter 29 (12 pages) 6 11 12 Appendix

6 Report of
Investigation
(27 pages) 6 11 12 Appendix

EXHIBITS for 12-09:

Marked Offered Ruled On Found

1 Pleadings (14 pages) 6 7 7 Appendix

2 Title 92, Nebraska
Administrative Code,
Chapter 27 (16 pages) 6 7 7 Appendix

3 Title 95, Nebraska
Administrative Code,
Chapter 1 (19 pages) 6 7 7 Appendix

4 Title 92, Nebraska
Administrative Code,
Chapter 28 (23 pages) 6 12 12 Appendix

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<u>EXHIBITS for 12-09:</u>	<u>Marked</u>	<u>Offered</u>	<u>Ruled On</u>	<u>Found</u>
5 Title 92, Nebraska Administrative Code, Chapter 29 (12 pages)	6	12	12	Appendix
6 Report of Investigation (27 pages)	6	12	12	Appendix
	- - -			
Appearances			2	
Reporter's Certificate			5	
Opening Statement by Mr. Wade			8	
Closing Argument by Mr. Halstead			51	
Closing Argument by Mr. Wade			53	
Motion in 12-08			58	
Motion in 12-09			59	
Decision in 12-08			59	
Decision in 12-09			61	

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1 PROCEEDINGS:

2 (Exhibits 1 through 6 in each case were marked for
3 identification.)

4 CHAIRPERSON McDONALD: Ladies and gentlemen, I am
5 Damon McDonald, chairperson of this hearing panel of the
6 Nebraska Professional Practices Commission. I convene this
7 consolidated hearing at 12:37 p.m. for the purpose of
8 receiving evidence on a petitions filed by Roger D. Breed,
9 Commissioner of Education, Petitioner, against Ann Gigstad,
10 Case No. 12-08, and Keri Watkins, Case No. 12-09.

11 The other members of the hearing committee are
12 Susan Anglemyer, Sarah Brown, Raymond Keller, Jodi Kupper,
13 Brian Maher, Joy Schott, Cindy Serfass, Karen Shelton, and
14 Jane Stavem.

15 The Commissioner's attorney is Jeffery R.
16 Kirkpatrick. His purpose is to advise the hearing panel,
17 chairperson, and the Commission on the performance of our
18 duties under the Commission's rule and regulations.

19 The court reporter is Wendy Cutting. Her purpose
20 is to record the testimony of the witnesses and mark the
21 exhibits.

22 The Clerk of the Commission is Kathi Vontz. Her
23 purpose is administrative.

24 This case arises from a request by the State Board
25 of Education that the Commission hear this matter pursuant

1 to Sections 79-859 through 79-871 of the Nebraska statutes
2 and the rules and regulations thereunder.

3 At this time, I ask the attorneys to enter their
4 appearance.

5 MR. HALSTEAD: Brian Halstead, 301 Centennial Mall
6 South, Sixth Floor, Lincoln, Nebraska 68509, on behalf of
7 the Commissioner of Education in both cases.

8 MR. WADE: Rick Wade of the law firm of McGuire
9 and Norby, 605 South 14th, Suite 200, Lincoln, Nebraska
10 68508, on behalf of both respondents, Keri Watkins and Ann
11 Gigstad.

12 CHAIRPERSON McDONALD: At this time, if there are
13 no objections, I will enter into the record the pleadings,
14 which are marked as Exhibit 1; the standards of ethics and
15 competency, which is 92 Nebraska Administrative Code,
16 Chapter 27, and is marked as Exhibit 2; and the Regulations
17 Concerning Teacher and Administrator Professional Practices
18 Hearings, which I 95 Nebraska Administrative Code, Chapter
19 1, and is marked as Exhibit 3.

20 Are there any objections?

21 MR. HALSTEAD: I have no objections to Exhibits 1,
22 2, and 3 in both cases.

23 MR. WADE: Nor do I have any objections to any of
24 those exhibits.

25 CHAIRPERSON McDONALD: Exhibits 1, 2, and 3 are
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1 received.

2 (Exhibits 1 through 3 were received in evidence in
3 12-08 and 12-09. See Index.)

4 At this time, the hearing committee's attorney
5 will conduct the hearing.

6 THE HEARING OFFICER: Thank you.

7 With that, we will proceed, Mr. Halstead, for an
8 opening statement.

9 MR. HALSTEAD: I think to speed things along, I'll
10 waive an opening statement in these cases.

11 THE HEARING OFFICER: Thank you, Mr. Halstead.
12 Mr. Wade, opening statement?

13 MR. WADE: Thank you, Mr. Kirkpatrick. I would
14 like to make an opening statement, just a brief one.

15 First of all, I would like to believe and I have
16 already stated before the Commission and before the State
17 Board of Education that you need to take and to consider the
18 individuals, and I know you do. We have -- you will see a
19 report. We have agreed to have a Report of Investigation
20 used as the factual basis and information that will be given
21 to the Commission members. As a part of that particular
22 report, there is a letter of recommendation from Assistant
23 Superintendent, Mr. Jim Sutfin. And I think this is
24 important, because Mr. Sutfin was, in fact, the complainant
25 in this case, and he did, in fact, state that "Ann Gigstad

1 began working for the Millard Public Schools in August 2002,
2 as an alternative curriculum teacher. During her time in
3 the district, Mrs. Gigstad has worked extremely hard to
4 prepare herself for additional leadership positions. Ms.
5 Gigstad has made many contributions to the district by being
6 an active leader. It has been noted in her evaluations that
7 Mrs. Gigstad's teammate frequently comments on how great she
8 is to work with. Mrs. Gigstad uses her organizational and
9 preparedness skills to fully engage her students' creative
10 and meaningful lessons." Now, that again is from the
11 complainant, and I think it's important, because you will
12 hear today that throughout her term and her work at Millard
13 Public Schools, she was K-2 alternate curriculum teacher at
14 Disney Elementary. She served on the Disney School
15 Improvement Team, the Action Team, the Disney Parent
16 University Committee, and assisted with even activities at
17 Disney Elementary. She has been a teacher leader this past
18 year, which was the 2011-2012 -- I guess, 2010-2011, because
19 that was the last evaluation. She has been a leader and has
20 been working on her master's degree in school leadership.
21 She will graduate in May of 2011. Ms. Gigstad is organized,
22 plans in advance, according to Millard Public Schools
23 curriculum, alternate curriculum, and IEPs according to
24 student goals. She is a punctual and works hard to support
25 Disney community with engagement and positive support. She

1 has been building's activities -- she has led team building
2 activities, trained staff with special education procedures,
3 is trained in response, instruction, and intervention. Ms.
4 Gigstad is a kind, compassionate teacher that works hard to
5 building positive effective relationships with staff. She
6 has worked hard to grow as an instructional leader. Ms.
7 Gigstad and Ms. Watkins collaborate well with the Disney
8 program with their PLC, their professional learning
9 community groups. I commend her on her efforts.

10 This has been basically the type of evaluations.
11 And you'll hear her testify that that has been consistent
12 throughout her period of time of employment at Millard
13 Public Schools. So I say that because I think there has
14 been an admission of some concern basically by her of an
15 omission. I think you will hear testimony and you will see
16 in the report that there was a student whose health care
17 needs were never in jeopardy. They were never ignored.
18 There was never any risk of harm to that particular student.
19 All appropriate care was taken and all appropriate care was
20 met. All procedures were followed as set forth by Millard
21 Public Schools. The problem was the full disclosure or lack
22 of full disclosure by Ms. Gigstad and Ms. Watkins, and
23 that's why we're here. And I think the reason why I state
24 that in an opening statement, as I said before, I think
25 these teachers deserve some consideration for their

1 long-term commitment and good work in a school and we take
2 into consideration the fact that they take responsibility
3 for mistakes that they made, and in this particular case
4 they have consistently over and over and over. And, in
5 fact, had resigned their position and their teaching job at
6 Millard Public Schools.

7 So, with that, I would go forward, thank you.

8 THE HEARING OFFICER: Thank you, Mr. Wade.

9 Mr. Halstead, you may now proceed with your
10 evidence.

11 MR. HALSTEAD: In the case involving Keri Watkins,
12 we would offer three exhibits. Exhibit No. 4, which is
13 Title 92, Nebraska Administrative Code, Chapter 28, the
14 rules and regulations regarding complaints and
15 investigations. Exhibit No. 5 being Title 92, Nebraska
16 Administrative Code, Chapter 29, the rules and regulations
17 regarding hearings before the State Board of Education, and
18 Exhibit No. 6, which is the Report of Investigation in the
19 matter involving Keri Watkins. We would offer for Ms.
20 Watkins' case Exhibits 4, 5, and 6.

21 THE HEARING OFFICER: Is there any objection, Mr.
22 Wade?

23 MR. WADE: No, there would be no objections to
24 those exhibits.

1 MR. HALSTEAD: And with respect to the case
2 involving Ms. Gigstad, we would offer three additional
3 exhibits. They would be Exhibit No. 4, Title 92, Nebraska
4 Administrative Code, Chapter 28, the rules and regulations
5 regarding complaints and investigations by the Department.
6 Exhibit No. 5 being Title 92, Nebraska Administrative Code,
7 Chapter 29, the rules and regulations regarding hearings
8 before the State Board of Education. And Exhibit No. 6,
9 which is the Report of Investigation in the matter of the
10 complaint against Ann Gigstad. We would offer in that case,
11 Exhibits 4, 5, and 6.

12 THE HEARING OFFICER: Mr. Wade?

13 MR. WADE: No objections to Exhibits 4, 5, and 6
14 in that particular case -- or this particular case as well.

15 THE HEARING OFFICER: There being no objection, 4,
16 5, and 6 are adopted independently in cases 12-08 and 12-09.

17 (Exhibits 4, 5, and 6 were received in evidence in
18 12-08 and 12-09. See Index.)

19 MR. HALSTEAD: I have copies of all the Commission
20 members of each report of investigation in each case. May I
21 distribute them?

22 THE HEARING OFFICER: You may distribute them.
23 Thank you, Mr. Halstead.

24 MR. HALSTEAD: And I have no further evidence,
25 because Ms. Gigstad is going to testify.

1 THE HEARING OFFICER: Thank you, Mr. Halstead.
2 Evidence being submitted, Mr. Wade, you may
3 proceed with your evidence.

4 MR. WADE: Thank you. I would call Ms. Gigstad to
5 the witness stand or have her sworn in, please.

6 THE REPORTER: Will you raise your right hand,
7 please? Do you solemnly swear or affirm the testimony
8 you're about to give will be the truth, the whole truth, and
9 nothing but the truth?

10 MS. GIGSTAD: I do.

11 ANN GIGSTAD

12 Called as a witness on her own behalf, having been
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. WADE:

16 Q Ms. Gigstad, would you please state your full name
17 and your address, please?

18 A Ann Gigstad, I live at 1630 J Avenue, or P.O. Box
19 462, Red Oak, Iowa 51566.

20 Q How long have you been at that particular address,
21 Ms. Gigstad?

22 A Since August of 2012.

23 Q And were you an employee of Millard Public
24 Schools?

25 A Yes.

1 Q And you understand and you have been -- you are
2 aware of the complaint in -- as a result the petition was
3 filed in this case?

4 A Yes.

5 Q And you have read and understand the contents of a
6 Report of Investigation that was prepared in your case, is
7 that correct?

8 A Yes.

9 Q And are there some clarifications that you think
10 may be of some help just for clarifying some details in that
11 particular report?

12 A Yes.

13 Q There is a statement that three paraeducators and
14 student teachers were told to lie. Do you recall that
15 conversation specifically?

16 A With the paraeducators?

17 Q Yes.

18 A I did have a conversation with paraeducators, but
19 at no point during that conversation did I specifically say,
20 "You have to lie."

21 Q Can you recall the context, because there may be
22 something in the Report of Investigation, i.e., page 5 of
23 16, that basically seems to indicate that you essentially
24 did tell them to lie, or if Ms. Watkins did tell them to

1 A As far as that comment right there?

2 Q Yes.

3 A Through the process of the questioning when I was
4 talking to Dr. Sutfin, I was trying to explain that
5 this -- we were directing the paras not to talk about the
6 situation because Mrs. Watkins wanted questions directed
7 back to her. She was the teacher. She was the student's
8 teacher, if anybody asked any questions, please direct them
9 to me. In saying that, when interviewing with Dr. Sutfin,
10 his questioning -- when he -- I don't remember exactly how
11 his comment was stated, but something to the effect, "So you
12 really essentially told them to lie." My comment was,
13 "Well, okay, we essentially told them to lie." So that's
14 where that comment came from.

15 Q Now, let's go back a little bit to the
16 circumstances that led to this, just because I think it's
17 important not only to see it in the report, but tell, if you
18 would, the Commission members and Mr. Halstead, how this
19 developed. What was your day like on this particular day,
20 and if you can identify the day that it actually occurred,
21 that would be best first.

22 A Okay. It was a Wednesday, and Wednesdays are a
23 short day for Millard. And they're always a little bit
24 crazy because our schedule is different. That Wednesday
25 started out even a little more out of the ordinary. The

1 classroom that I was working in were students with special
2 needs that were moderate to severe disabilities needing lots
3 of care. We had an individual student who came in that day
4 off the bus and after being there a short amount of time, we
5 realized she came without a diaper on her and she was a
6 student who could not take care of any of her self-care
7 needs. It had to be done, and so after cleaning up quite a
8 mess, because she had had a bowel movement and urinated and
9 it ended up around the classroom and different things as
10 things happened, and so we were -- I was in the
11 process -- so in that process, my classroom had to be
12 cleaned -- or moved out -- the students needed to be moved
13 out so that the carpets could be cleaned where there was the
14 feces on the floor. The classrooms at that elementary
15 school is an open concept building, so Mrs. Watkins and I's
16 classroom was actually -- there was a partway wall, but we
17 were open to each other. And so she kind of took my
18 students to her side of the classroom while I was dealing
19 with the cleanup, trying to get a hold of parents, get that
20 situation worked out, so I was occupied doing that. She and
21 her staff had the other classroom. So it was --

22 What all did you want me to talk about? Sorry.

23 Q No, that's fine. I think it's important. You can
24 continue.

25 A So anyway, I mean, the day started out rather
05.07.13 State Board of Education 7.10-21

1 hectic, rather crazy. It was not our ordinary day. In the
2 process of that, this other student, there had been concerns
3 about care, as far as parents providing her well-being at
4 home, that kind of thing. After talking to the dad on the
5 phone -- mom and dad were separated -- I went to my
6 principal, expressed those concerns. The comment I -- I
7 didn't feel supported when I went to that. The comment that
8 was told to me was, well, she'd been here for a while before
9 we noticed it, what's our -- what's your fault in this?
10 Which became very emotional, because I felt I was being
11 blamed.

12 So anyway, we go on with our day. We get that
13 student taken care of. We go on with our day. It was
14 about -- it was lunch time by the time we got the students
15 back separated as far as within their individual classrooms.
16 And it was at that point, then, that Keri came to me and was
17 concerned with her student.

18 Q And what was the concern that Ms. Watkins
19 expressed to you about her student?

20 A She thought he was having a reaction to something.

21 Q And so then, what happened after that?

22 A She came to me. She was, like, "Oh, my gosh. I
23 don't know what happened." She was flustered. And she
24 said, "I -- he" -- she had done a peanut butter sandwich-
25 making activity with the students. I was not at the table

1 when she did that activity, because I was dealing with the
2 other student, and she said, "I forgot. He has a peanut
3 allergy, and he tasted a sandwich. He put" -- and she said,
4 "I can't. I can't tell his mom. I can't tell" -- you know,
5 "What do I do? What do I do?" And --

6 Q With that information, what did, then, you do so
7 as to protect -- if, in fact, that's the case, the well-
8 being and the health of the student?

9 A Well, she -- we -- after a very brief
10 conversation, "We have to call the parent." So I did walk
11 with her down to the office. There's a phone room. And she
12 did call the parent and told the parent that she had thought
13 the child came in contact with peanut butter. He had just
14 come from lunch, maybe in the lunchroom. And that was where
15 there was inaccurate information that was reported. And she
16 thought he might be having an allergic reaction and she
17 needed to come and take care of him. And so, immediately,
18 the child -- we called the parents and then I went back to
19 the classroom and then Mrs. Watkins took the student to the
20 nurse's office.

21 Q So then you do believe or you do know that she did
22 take the student to the nurse's office?

23 A Yes.

24 Q And at that point in time, did the -- do you know
25 whether or not the parent came?

1 A When Keri came back to the classroom, she said the
2 parent had come and was taking him to the doctor.

3 Q All right. Is that the procedure that would be
4 followed from your understanding of the procedures that are
5 implemented and used for health purposes at Millard?

6 A Yes.

7 Q So the steps that were taken then, you thought
8 protected the students?

9 A Yes.

10 Q This particular student, I'm sorry.

11 A Yes.

12 Q And it appeared to you that all steps had been
13 completed including the parent coming and then the student
14 going to the doctor.

15 A Yes.

16 Q Now, following that particular -- those steps, was
17 there further conversation with the administration as to
18 what occurred?

19 A I did not have any conversation with the
20 administration until that following Monday.

21 Q And at that time, was there some non-disclosure of
22 all the information?

23 A Yes. I do not recall much of that conversation.

24 The day, then, that the administrator was talking to us

25 about this, I had been out of the building that morning

1 doing some preschool observations. I came back in. On my
2 way as I pulled into the parking lot, my husband called and
3 said, "I am sick like I've never been sick before." He
4 could hardly talk. He said he was having trouble breathing.
5 He says, "Come get me. I need to go to the doctor. I don't
6 know what's wrong." This was very out of the ordinary. He
7 never complains that he's sick, so my level of concern was
8 raised there. I went into the building. My para staff told
9 me the office would like to talk to me. They needed to talk
10 to me about incoming kindergarten students, which I'd just
11 been out doing preschool observations, that made sense.

12 I went into the office. The secretary directed me
13 into the principal's office, and I proceeded to tell the
14 principal what the phone call I had received from my husband
15 and I was asking her, can I please get students released,
16 get them on the bus, which we were within, I think 15
17 minutes of the school day, thereabouts, being dismissed and
18 then could I leave right away so I could go take my husband
19 to the doctor. Her comment was, "If he's that sick, he
20 needs to call 911. Sit down." And then Dr. Sutfin and --
21 my principal was sitting there. I don't remember her saying
22 anything. Dr. Sutfin was asking me questions and I, as I've
23 stated in the report, I don't remember my conversation.

24 Q And is that because of your concern for your

25 husband at the time?

1 A Yes.

2 Q Clouded your memory or clouded your recollection?

3 A Yes. I think I was just -- I was focused on that
4 and I kind of blocked everything out and I --

5 Q All right, so yeah, that's the basis of the
6 circumstances and the steps that were taken to protect the
7 student. Where do you believe that you made a mistake for
8 which you are here today and for which you decided to resign
9 your employment?

10 A I wasn't honest about all the facts. The parents
11 should have been told up front that we did a sandwich-making
12 activity in our classroom and they could have -- he could
13 have come in contact with -- we don't know why other than we
14 thought we could just handle it. We didn't want to cause a
15 problem for everybody else. Emotions were on an
16 extraordinary high that day, due to the other circumstance
17 that had gone on. My previous conversation that morning
18 with my administrator, it just caused us to make a quick
19 decision that we didn't stop and really think through, and
20 we did not report accurate information. And when I was
21 called in the very first time, I did not intend to not be up
22 front and honest. I just --

23 Q And when, in fact, you did indicate that perhaps
24 it was peanut butter and -- all the steps were taken to
25 specifically address a peanut butter allergy, isn't that

1 correct?

2 A Uh-huh.

3 Q So the mere fact that you did not identify that
4 you -- that he may have had peanut butter in a classroom
5 would not have changed the procedures that you took.

6 A Correct. We still, I mean, that was our first
7 thing is we had to get the student -- we had to contact the
8 parent and make sure whatever help he needed, he needed to
9 get.

10 Q So, is it your opinion that his health was ever in
11 jeopardy?

12 A No.

13 Q The problem is, and as I said, you've been open
14 and honest and accepted responsibility for this, is that
15 correct?

16 A Correct.

17 Q And it's not because you did not administer or
18 suggest the proper procedure for protecting the children.
19 It was because you did not openly disclose to your
20 administration what had exactly happened.

21 A Correct.

22 Q Is that correct?

23 A Uh-huh.

24 Q What would you do if you had it to do over? How
25 would you handle this case?

1 A Take that split second to take a deep breath and
2 when my teaching partner came to me and said, "What do I do?
3 What do I do? I can't tell the parent," I would say, "Yes,
4 you can."

5 Q But the parent was told.

6 A Right, but tell them that it happened right here.

7 Q Would there also be a step to take to go to your
8 administrator and talk to the administrator as to what would
9 happened?

10 A Oh, yes.

11 Q So part of --

12 A Yes, yes, I mean, yeah, I would have went to the
13 administrator and said, this is what happened. I mean, you
14 know, I --

15 Q Now, how long were you at Millard?

16 A Ten years.

17 Q And have you had other situations with peanut
18 allergies?

19 A No.

20 Q So this was your first?

21 A Yes.

22 Q Is there what is called an EpiPen or something in
23 your classroom?

24 A No, the student did not have one.

25 Q Was this unusual for this student to have any sort
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1 of food that was outside of his food that he brought from
2 home?

3 A Yes. He was a very picky eater.

4 Q The information as you heard me give as to your
5 performance at Millard Public Schools and what I believed is
6 your reputation, did you have good evaluations throughout
7 your tenure at Millard Public Schools?

8 A Yes.

9 Q Were they excellent?

10 A Yes.

11 Q And did I reflect accurately the way your
12 reputation and your evaluations actually were portrayed to
13 you in writing?

14 A Yes.

15 Q And who was your principal?

16 A Bethany Magana.

17 Q And who was your Assistant Superintendent for
18 Human Resources, I believe it is?

19 A Dr. Jim Sutfin.

20 Q And Mr. Sutfin, he is the complainant, right?

21 A Correct.

22 Q And he also wrote the letter of recommendation for
23 you.

24 A Correct.

25 Q And with that letter of recommendation, did you go

1 elsewhere to try to find a position?

2 A Yes, I did.

3 Q And where did you go?

4 A I'm currently employed at Atlantic Public Schools
5 in Atlantic, Iowa.

6 Q And when you went to Atlantic Public Schools in
7 Atlantic, Iowa, did you disclose to your administrator there
8 that this matter had happened and this was pending?

9 A Yes, at the time of the interview.

10 Q At the time of the interview. At the time of the
11 application, at the time of the first interview.

12 A Uh-huh.

13 Q And did you give him references?

14 A Yes.

15 Q Did you include Dr. Sutfin?

16 A Yes, I did.

17 Q And do you know whether or not he actually
18 contacted Dr. Sutfin?

19 A Yes, he told me he did.

20 Q And did he tell you that he discussed with him the
21 information that you had given to him?

22 A He said that the matter -- that the situation was
23 discussed. He said he was very up front about the
24 situation, but I was not reflected negatively. And he had
25 no problems hiring me.

1 Q And do you -- did he tell you, and do you have any
2 reason to believe that he actually discussed with him the
3 actual allegations against you?

4 A He didn't tell me that he had discussed -- he
5 didn't tell me what specifically they discussed, but I had
6 shared with him the specific allegations.

7 Q Okay, so you shared with him the specific
8 allegations, so you have reason to believe that he would
9 have discussed those, in turn, with your assistant
10 superintendent.

11 A Yes.

12 Q And despite that, then you were hired.

13 A Yes.

14 Q And even to this very day, your administration
15 knows that this is pending --

16 A Yes.

17 Q -- in Nebraska, is that correct?

18 A Yes.

19 Q And you are continuing to teach at the school in
20 Atlantic?

21 A Yes.

22 Q And what do you teach there?

23 A I teach special education students. In Iowa, they
24 call it a Level 3 program. So it's students with moderate
25 to severe disabilities in grades four through eight.

1 Q Is that different than what you taught in
2 Nebraska?

3 A No, it's very similar.

4 Q So you could continue to use your expertise in
5 Iowa that you were using here.

6 A Yes.

7 Q Just one other comment that was made in the
8 report, I believe on page 6, paragraph 4, there was
9 something -- there was a comment made that said that you had
10 used your position of power over the paras and the student
11 teacher. Do you recall saying that?

12 A I recall saying I did not use my position of
13 power. I didn't see myself in a position of power.

14 Q Okay, so did you, in your opinion, ever try to
15 influence them not to tell the truth or use your power to
16 encourage them not to tell the truth?

17 A No.

18 Q What your -- I think your testimony is, you
19 encouraged them to be discrete and confidential and direct,
20 have all the questions directed to Ms. Watkins.

21 A Yes.

22 Q How has this affected your life, Ms. Gigstad?

23 A It's hard. I love what I do. I love the kids
24 that I work with. The hardest thing was being taken out of
25 that classroom and knowing that those students that were

1 left there were the ones that were going to suffer. It's
2 hard for me, and it's -- I'm sure it's been hard for my
3 family. We chose to move to Iowa, which is where I grew up,
4 so it wasn't a totally out of the ordinary thing. But I
5 live with this every day and I wake up every morning asking
6 myself why, why didn't I react differently. If I could undo
7 it, I would.

8 Q Now, you were taken out of your classroom. You
9 say that was your concern, because you then had to leave
10 students that had actually formed a dependence on you.

11 A Yes. Not only a dependence, but they have unique
12 needs and unique programing. And it doesn't matter how much
13 written lesson plans I can write, and I did ask Dr. Sutfin
14 after that Monday when he said I was placed on
15 administrative leave, can I go back tomorrow morning and
16 just get things ready, because it's a hard classroom to walk
17 into. It's not like it's your regular third grade classroom
18 where you can take out a textbook. There are no textbooks.
19 And so I knew it would be very, very difficult for these
20 students, and I wanted to do what I could for them.

21 Q Are you asking this Board to take into
22 consideration that you believe you have learned your lesson
23 that this will -- and that this will never occur again?

24 A Oh, absolutely.

25 Q Is this the only disciplinary matter that you had
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1 at Millard?

2 A Yes.

3 Q Have you ever had any disciplinary matters at your
4 present school?

5 A No.

6 Q Are your evaluations good at your present school?

7 A Yes.

8 Q Now, you're appearing here today because you want
9 to continue to at least maintain your certificate in the
10 state of Nebraska, is that correct?

11 A Correct.

12 Q And you and your husband drove into Lincoln
13 because of that very purpose.

14 A Yes.

15 MR. WADE: I have no further questions.

16 THE HEARING OFFICER: Mr. Halstead.

17 CROSS-EXAMINATION

18 BY MR. HALSTEAD:

19 Q Ms. Gigstad, the evaluations that were done of you
20 while you were at Millard, was your principal the one who
21 evaluated you?

22 A Yes.

23 Q Did she generally have positive things to say
24 about you in those evaluations?

25 A Yes.

1 Q Now, let's go to April 18th, because that's the
2 day in question. It sounds like it may not have been a good
3 day at Disney Elementary on April 18th, would that be a fair
4 statement?

5 A That's a fair statement.

6 Q Do you have any idea what day the principal had on
7 April 18th?

8 A I do know that they were doing state assessments
9 in the computer lab next to ours, and the carpet cleaning.

10 Q I think it's clear you didn't have a good day on
11 April 18th.

12 A Correct.

13 Q But you don't know what kind of day the principal
14 had had on April 18th until you interacted with the
15 principal.

16 A Correct.

17 Q Maybe everybody would like to have another day on
18 April 18th.

19 A Can we redo April 18th?

20 Q The child who had the allergic reaction was a
21 student Mrs. Watkins had in her class.

22 A Yes.

23 Q And this child did have a peanut allergy for which
24 he was not supposed to come into contacts with nuts,

1 A As far as I know, yes. To my knowledge.

2 Q And Mrs. Watkins class was working on their
3 alphabet, is that the activity?

4 A Yes.

5 Q And the letter --

6 A The letter of the week was S.

7 Q And one of the activities, let's make sandwiches.

8 A Sandwiches, uh-huh.

9 Q And peanut butter was out to make sandwiches with.

10 A Yes.

11 Q And would it be fair to say that Mrs. Watkins
12 either didn't remember or it -- in the sense of the student
13 grabbed a peanut butter sandwich that she never expected he
14 would grab.

15 A Correct. Both of those statement I would say
16 would be correct.

17 Q But apparently, Mrs. Watkins did, in fact, see him
18 take a peanut butter sandwich and put it to his mouth or
19 something like that. Is that your understanding?

20 A From what she had retold to me, she said she saw
21 him spit it out.

22 Q Okay. And she came to you when the child then
23 went off to lunch, correct?

24 A Correct.

25 Q And when the child came back is when she started

1 noticing he had symptoms of an allergic reaction, is that
2 fair?

3 A Yes.

4 Q And that's when she came to you, "What do I do?
5 What do I do?" Right?

6 A Yes.

7 Q And that's when the decision was made not to tell
8 mom that there was peanut butter in the classroom, her prior
9 observation.

10 A Correct.

11 Q And that's the fundamental mistake you all made.

12 A Correct.

13 Q That's the lie that continued to be told, right.

14 A Yes.

15 Q The fact that there was peanut butter in the
16 classroom.

17 A In the classroom, uh-huh.

18 Q So then, you walked down with Ms. Watkins to the
19 office when she calls mom.

20 A Correct.

21 Q And when Ms. Watkins talks to mom, she doesn't
22 relate that they were doing sandwiches in the classroom and
23 peanut butter was in the classroom, is that correct?

24 A Correct.

25 Q She just makes a reference, maybe it was in the

1 lunchroom.

2 A Correct.

3 Q And to your knowledge, the child then went to the
4 nurse.

5 A Yes. Mrs. Watkins and I walked back to the
6 classroom. She then took the student down to the nurse's
7 office. I did not accompany her, but yes.

8 Q And then she came back to the room. Mrs. Watkins
9 came back to the room.

10 A Yes, after the parent had taken -- had come to get
11 the student. But, yes, she did come back.

12 Q She left to take the child down to the nurse's
13 office and then she came back a short time -- sometime
14 later.

15 A Yes.

16 Q So your presumption is the child went to the nurse
17 and mom came and got the child, and that's how the day ended
18 for the child.

19 A Yes.

20 Q I don't know -- is --

21 A I do know that the child was taken to the doctor.
22 Mrs. Watkins received an email from the teacher later
23 on -- or from the parent later on that day. Actually, it
24 had a picture of the student in the doctor's office playing
25 with the gloves. And Mrs. Watkins shared that with me.

1 Q So the child wasn't harmed seriously from what
2 happened.

3 A No.

4 Q May have had a reaction, but it was addressed.

5 A Yes.

6 Q When Mrs. Watkins comes back down to the classroom
7 after taking the kid up to the nurse and whatever else, is
8 there further discussion by you or her about what it is you
9 should do for the rest of the day?

10 A I don't know if there was specific, I mean, I
11 guess --

12 Q I mean, obviously, this activity occurred and
13 there was the short discussion with you and her and --

14 A Right.

15 Q -- someone made the decision --

16 A Paras were in and out.

17 Q -- we're not going to tell mom that there was
18 peanut butter in the classroom.

19 A Right.

20 Q So did you discuss that further after she came
21 back to the classroom?

22 A Yes. And we had a conversation and while she was
23 knocking herself, she said, "When the paras come back for
24 lunch, let them know what I told mom, and if they -- if
25 anybody asks them any questions or if they have any

1 questions, please tell them to talk to me."

2 Q So, when the paras came into the room, did you
3 relate to them that Mrs. Watkins had told mom maybe it
4 happened in the lunchroom?

5 A Yes, I did.

6 Q So, you repeated the lie to the paras.

7 A Yes, I did.

8 Q So the paras' only knowledge is what you had told
9 them about what may have occurred with the child.

10 A Yes. I mean, some of them were in the room during
11 the activity. Some of them were out to lunch.

12 Q Okay. So some of the paras may have known the
13 child picked up the peanut butter, put it in his mouth, and
14 everything else.

15 A Yes.

16 Q But the comments by you to the paras was what Mrs.
17 Watkins told mom.

18 A Yes.

19 Q So some of the paras may have understood we're not
20 supposed to tell what happened in the classroom to anybody
21 else. That's a possible interpretation, isn't it?

22 A That's a possible interpretation.

23 Q So, if anybody was asking the paras what happened
24 with this child, they may have only repeated what Mrs.

25 Watkins told mom.

1 A Possibly.

2 Q Do you know if the paras -- Mr. Sutfin or the
3 principal talked to the paras?

4 A I think that was part of the investigation, yes.

5 Q And after Wednesday, you said you had no further
6 conversations about this incident with any of the
7 administrators until the following Monday, correct?

8 A Correct.

9 Q So all of the ongoing investigation or whatever
10 would have been with Ms. Watkins, the paras, or everything
11 else on that issue, not with you. You had no role in any of
12 that.

13 A Right.

14 Q You don't know what happened on Thursday or
15 Friday, specifically.

16 A No. I was called in on Monday, the 24th, I
17 believe, or 23rd.

18 Q And that's the first time you had a conversation
19 with the principal or with Mr. Sutfin about what happened on
20 April 18th.

21 A Correct.

22 Q And in that, you had other things on your mind,
23 you weren't paying -- obviously, you related what you were
24 thinking about at the time, so what you told them, you don't

1 A Correct.

2 Q When did you ever tell an administrator about what
3 really happened that day?

4 A The following day I met again with -- Tuesday with
5 Dr. Sutfin. I believe Chad Meis- --

6 Q Chad Meisgeier?

7 A Yeah, Meisgeier, I believe he was -- I think he
8 was the one at that meeting, and then I also had contacted
9 Jackee Wise from the NEA and she was part of that
10 conversation as well.

11 Q She's the UniServ person who --

12 A Yes, correct, the UniServ rep.

13 Q And in that meeting on the Tuesday is when you
14 first recall telling Mr. Sutfin and everything else, this is
15 what happened.

16 A Yes.

17 Q And you offered to resign your position, didn't
18 you?

19 A Yes, I did.

20 Q And the Millard School Board accepted your
21 resignation.

22 A Yes.

23 MR. HALSTEAD: I don't think I have any more
24 questions, thank you.

25 THE HEARING OFFICER: Thank you, Mr. Halstead.

1 Are there questions from the Commission for Ms.
2 Gigstad?

3 Yes.

4 COMMISSIONER SCHOTT: Why did you resign?

5 THE RESPONDENT: I thought it was in my best
6 interest and the best interest of the district to resign and
7 handle it in that way.

8 COMMISSIONER SCHOTT: What were the symptoms of
9 the allergic reaction? Was it a rash? Was it anaphylaxis?
10 What --

11 THE RESPONDENT: I didn't see -- when Mrs. Watkins
12 came to me and said she thought he was having a reaction, I
13 was standing kind of in between our classrooms. He was at a
14 table across the room. I noticed him itching, but I did not
15 go and look at any of the symptoms.

16 COMMISSIONER SCHOTT: Last question. When you
17 moved to Iowa, were all of your years of experience and
18 credits recognized by the school?

19 THE RESPONDENT: No, they were not. I started
20 with ten years of experience and I have two master's degrees
21 and they only accepted one. And they said that was just
22 their district policy. They're a small school district.

23 THE HEARING OFFICER: Further questions?

24 Yes.

25 CHAIRPERSON STAVEM: Was the child affected verbal
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1 or non-verbal?

2 THE RESPONDENT: He's not -- pretty much --
3 somewhat non-verbal. I mean, he could say a few words.

4 CHAIRPERSON STAVEM: Would he have any ability to
5 express what he did or what happened or tell people the
6 situation?

7 THE RESPONDENT: I don't think -- no.

8 CHAIRPERSON STAVEM: And then, does the status of
9 your Nebraska certificate have any bearing on the status of
10 your Iowa certificate?

11 THE RESPONDENT: From the research I have done --
12 I mean, I will report whatever the decision is made, and
13 then Iowa will make -- will, I suppose, do their own
14 investigation and make their own determination. That's my
15 understanding of the process. I have -- like I said,
16 my -- the school district I am at, the administrator is well
17 aware of this situation. Since no determination has been
18 made here, there has been nothing that I have -- I have
19 nothing to report to Iowa.

20 CHAIRPERSON STAVEM: And it's a full
21 certification. Is it a probationary or a --

22 THE RESPONDENT: It's a full certification. I was
23 certified in Iowa prior to coming to Nebraska. I taught in
24 Iowa for seven years before coming to Nebraska. And so,
25 before I received this complaint in the mail, I had already

1 applied for my Iowa -- to reinstate my Iowa teaching
2 certificate.

3 CHAIRPERSON STAVEM: Okay, thank you.

4 THE HEARING OFFICER: Yes.

5 COMMISSIONER MAHER: Did Dr. Sutfin, regarding the
6 recommendation that he wrote for you, did he write that
7 before you resigned from the Millard Public Schools or after
8 you resigned from the Millard Public Schools?

9 THE RESPONDENT: I believe it was after.

10 MR. WADE: It was during the process.

11 THE RESPONDENT: It was during the process. To my
12 knowledge it was after, but I'm not sure when exactly he
13 wrote the letter.

14 COMMISSIONER MAHER: The student who ate the
15 sandwich, was that student on your case load?

16 THE RESPONDENT: No.

17 COMMISSIONER MAHER: On Mrs. Watkins case load?

18 THE RESPONDENT: On Mrs. Watkins' case load.

19 COMMISSIONER MAHER: And then regarding the -- you
20 made a general statement, I think, that you didn't feel like
21 you were in a position of power over the paras, is that
22 correct?

23 THE RESPONDENT: Correct.

24 COMMISSIONER MAHER: Can I have a couple of

25 questions from that? Do you direct your paras? Did you

1 direct your paras in your Millard Public Schools position?

2 THE RESPONDENT: Yes, I give them directions and,
3 you know, I expect them to follow procedures and things like
4 that, but I guess, when I think of a position of power, it
5 would mean I have control over them, and I don't -- we
6 worked as a team and we were a team environment. And I
7 never would have asked them to do anything that I wouldn't
8 have done, as far as like changing a diaper or tube feeding
9 a student or any of those duties. We shared those duties,
10 so I guess when I hear that position of power, I look at it
11 that way. And that was my --

12 COMMISSIONER MAHER: Did you evaluate the paras in
13 that situation?

14 THE RESPONDENT: The principal asked us for input,
15 but the evaluation was completed by the administrator.

16 COMMISSIONER MAHER: Thank you.

17 COMMISSIONER KUPPER: There was reference both in
18 some of the information and what you said in terms of not
19 wanting to tell the mother what really happened. Was there
20 some reason, or would that have been the case regardless,
21 you don't want to tell any parent what happened?

22 THE RESPONDENT: No. I generally would say I have
23 a very good relationship with parents and I'm readily
24 willing -- and the student had been in our building and I
25 had had the student earlier in his K-2 career, because I was

1 the lower level teacher. And there had just been some
2 concerns and some issues there, and I had had a
3 difficult -- it was a difficult relationship, and I think
4 that Mrs. Watkins was afraid to tell her, "Oh, my gosh, I
5 let this happen in my classroom," of what she would think
6 and the problems that it might create. And I think if we
7 took care of the situation and we got the student the
8 medical help that he needed, that was what we were concerned
9 about. And in that moment of bad decision, it, for that
10 long, made sense.

11 COMMISSIONER KUPPER: Was the mother in any
12 position of power or influence in terms of either you or
13 Mrs. Watkins' jobs?

14 THE RESPONDENT: No.

15 COMMISSIONER SHELTON: Have you had opportunity to
16 have contact with those parents after the incident?

17 THE RESPONDENT: No, we were not. We were told
18 not to contact them. If I could do anything, I would love
19 to apologize not only to that student's parent, but to all
20 those parents. No, we -- I don't know what staff in our
21 building were told. I don't know -- basically, we were shut
22 out at that -- that breaks my heart that I couldn't even
23 talk to the person who was subbing in that building and help
24 them with those kids.

25 COMMISSIONER SHELTON: When this happened and I
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1 just need a little clarification. Did you take -- once you
2 decided that, okay, we have to do something, did the child
3 go -- did you take the child to the health office first or
4 call the parent first?

5 THE RESPONDENT: The parent was called first.

6 COMMISSIONER SHELTON: And why didn't you take the
7 child to the health office first, or can you help me
8 understand that piece?

9 THE RESPONDENT: I don't know. Mrs. Watkins just
10 said, "I'm going to go call the parent," and that was -- and
11 I think, from -- and I can't speak for her, but he
12 was -- obviously, there was a concern there, but was
13 breathing, was making noises, and trying -- you know, was
14 giggling at some point, that kind of thing. So she said
15 that she wanted to go call the parent.

16 COMMISSIONER KUPPER: One other. What day did you
17 resign? Was it during that initial -- or that second day
18 you came back? Or the second day of the discussion where
19 you admitted that maybe the facts were not represented?

20 THE RESPONDENT: I think it was April 27th is
21 the --

22 COMMISSIONER KUPPER: And the incident happened on
23 April 18th?

24 THE RESPONDENT: Uh-huh.

25 COMMISSIONER KUPPER: You talk about the feelings

1 of frustration of not being able to be there for the
2 students and to continue to make sure that the instruction
3 continued. Was it your perception that if you had not
4 chosen to resign, you would not have been able to continue
5 your role because of a different outcome, or did you
6 self-select to take yourself out of that teaching role prior
7 to the end of the year? Does that make sense?

8 THE RESPONDENT: Yes. I was told I was placed on
9 administrative leave and I chose to resign. There was no
10 clear in all the decision -- or in all the conversations
11 about if I didn't resign what would happen.

12 COMMISSIONER KUPPER: Was the terms under which
13 administrative leave, in terms of maybe still having input
14 for the sub or for others to ensure the continuation of the
15 instruction was what would have happened had you chose that
16 made clear to you?

17 THE RESPONDENT: No.

18 CHAIRPERSON McDONALD: I was just going
19 to -- maybe because lunch is on my mind, but with the
20 student that you're talking about, is this a child that has
21 their own lunch provided every day?

22 THE RESPONDENT: Correct, yes.

23 COMMISSIONER MAHER: Another one. I'm assuming
24 from your description that this room is a lot of high need
25 students.

1 THE RESPONDENT: Yes.

2 COMMISSIONER MAHER: A very high level of concern
3 for all of the kids in there?

4 THE RESPONDENT: Yes.

5 COMMISSIONER MAHER: And anything can happen at a
6 moment's notice in this classroom.

7 THE RESPONDENT: Yes.

8 COMMISSIONER MAHER: After the student that we've
9 talked about, the rash was seen, the determination that mom
10 needed to be called was made, neither one of the teach- --
11 were there just two teachers?

12 THE RESPONDENT: Yes.

13 COMMISSIONER MAHER: Neither one of the teachers
14 stayed in the room, yet both of you went to make one call to
15 the mother, is that correct?

16 THE RESPONDENT: Yes. Keri had a bad cold that
17 day and she was having a hard time talking, and she was
18 afraid mom wasn't going to be able to understand her on the
19 phone and kind of wanted me there to --

20 COMMISSIONER MAHER: So you went to speak or at
21 least be prepared to speak if she couldn't speak.

22 THE RESPONDENT: Right, but I did not speak to the
23 mom.

24 COMMISSIONER SHELTON: And I understand that you

25 had your UniServ director there from NSEA.

1 THE RESPONDENT: On Tuesday, yes.

2 COMMISSIONER SHELTON: And at that point in time,
3 did they give you or intervene with you in any conversations
4 as to how proceedings could move or to assist you with
5 making any decisions with the administration at that point
6 in time?

7 THE RESPONDENT: I think we talked -- I mean, she
8 advised to resign. I mean, I think that was -- I mean, and
9 that was a conversation we had, yes. But other than that,
10 we didn't talk about any --

11 COMMISSIONER SHELTON: Any other options that
12 could have been available to you?

13 THE RESPONDENT: I mean, she talked about -- she
14 didn't know what the administration was going to do, but she
15 explained the whole gamut of when this type of situation
16 occurs. You can be on administrative leave to -- paid
17 administrative leave, non-paid administrative leave, to
18 canceling your contract. So that was -- she gave us the
19 range of possibilities. She didn't know what, obviously,
20 what they would decide, and so I thought it was in my best
21 interest and in the interest of the district to go ahead and
22 resign.

23 COMMISSIONER KUPPER: So you weren't offered
24 administrative leave that day. It was just one of the

25 options that had been --

1 THE RESPONDENT: I was told I was put -- on Monday
2 when I went in, I was told I was put on administrative
3 leave.

4 COMMISSIONER KUPPER: Paid or unpaid? Do you
5 know?

6 THE RESPONDENT: Paid. But it was not -- I was
7 not given a timeline or any --

8 COMMISSIONER KUPPER: As to when that might change
9 to something else.

10 THE RESPONDENT: Yes, correct.

11 COMMISSIONER SCHOTT: It was stated that you had
12 good evaluations with your administration, but did you have
13 a good working relationship with your administration? Did
14 you feel that you could go to them when there was a crisis?

15 THE RESPONDENT: I thought so. I think, again,
16 this was maybe a bad day for me and as Mr. Halstead said, a
17 bad day for her. I think I felt I could go to her when it
18 was a very calm situation. I did feel that this
19 administrator was a person who reacts very quickly and gets
20 kind of riled up, and so I think after my meeting with her
21 in the morning when trying to talk to her about another
22 student, it played into my emotions.

23 THE HEARING OFFICER: Any further questions from
24 the Commission?

25 (No response.)

1 conversation with Mr. Sutfin and the principal.

2 A Correct.

3 Q It was on Tuesday, and on that day you were
4 informed you were on administrative leave?

5 A On Monday when I left, I was told --

6 Q You were put on administrative leave.

7 A I was told not to return to school on Tuesday, I
8 was on paid administrative leave.

9 Q And I think if they look at the report, you were
10 also directed not to talk to Mrs. Watkins and she wasn't
11 supposed to talk to you, correct?

12 A Correct.

13 Q And overnight, there was a conversation between
14 the two of you about how are you feeling or whatever, but --

15 A Yes.

16 Q And then on Tuesday you went back in and basically
17 admitted everything to Dr. Sutfin on Tuesday.

18 A Yes.

19 Q And at that point, he hadn't made a decision yet,
20 had he?

21 A Correct.

22 Q And then you talked with your UniServ director
23 about all your options?

24 A Yes.

25 Q And lo and behold, on Friday there's this

1 settlement agreement that you sign and there's a resignation
2 letter that you --

3 A Yes.

4 Q Okay, so you had representation from Tuesday
5 forward.

6 A Yes.

7 Q The other thing, in the report and clearly
8 in -- the materials that were used in Ms. Watkins' class to
9 make the sandwiches --

10 A Yes.

11 Q Somehow they got stuffed in the diaper pail, not
12 the trash can. Do you know how that was -- was that
13 discussed or do you know who did that?

14 A I don't -- I did not discuss it with anyone. I do
15 know that all the trash was thrown out and at some point all
16 the trash from my side of the classroom was put in the
17 diaper pail, because it could be closed, because we had
18 cleaned up the feces.

19 Q Does trash normally get put in the diaper pail?

20 A No, not unless it stinks.

21 MR. HALSTEAD: Okay, good enough. Thank you,
22 that's all I had.

23 THE HEARING OFFICER: Thank you.

24 Mr. Wade, do you have any further evidence?

25 MR. WADE: I have nothing further, no.

1 THE HEARING OFFICER: No further evidence?

2 MR. WADE: No further evidence either, Your Honor.

3 THE HEARING OFFICER: With the evidence being
4 submitted, Mr. Halstead, would you like to make a closing
5 statement?

6 MR. HALSTEAD: I would. "Oh, what a tangled web
7 we weave when first we practice to deceive." Sir Walter
8 Scott. It's two centuries or more old. Making the mistake,
9 the fear that I can't tell the truth, and then all of the
10 things that went on afterwards to ensure. Considering the
11 facts, had they just said, well, we were making sandwiches
12 in the classroom and maybe he came into contact with peanut
13 butter, we wouldn't all be sitting here today. But, for
14 whatever reason, choices were made not to tell the truth.
15 There were statements made to paraprofessionals who are not
16 running the school, who are not in powers of authority,
17 repeating what mom was told, and if the paras actually saw
18 what happened and heard what mom was told, I don't think it
19 takes anyone in this room hard to figure out they got the
20 message about this is what we tell everybody happened. And
21 they all got caught up in the web of deceit. Clearly, bad
22 choices were made by numerous people.

23 Mrs. Watkins, for whatever her fears about
24 telling mom, clearly were far less than the problems she

25 caused. And, unfortunately, this did make the media. This
05.07.13 State Board of Education 7.10.56

1 did result in both of them losing their jobs. So they
2 obviously have paid a price. I don't think there's any
3 doubt that they failed to disclose material facts that went
4 on. I don't think Ms. Gigstad or Ms. Watkins is contesting
5 that they lied to administration and others about what
6 happened. They're not here contesting that that's immoral
7 and an act of moral turpitude, and certainly given the
8 opportunity, I would submit to you, they both would do it
9 differently. But we all don't get to replay history and
10 start over from scratch in that regard.

11 Clearly, we don't think this is a minor issue,
12 because if we're working with children, the parents are our
13 partners. They deserve to know the truth also, even if
14 they are difficult to deal with.

15 As I read earlier, the criteria you evaluate,
16 what was the offense, lying, misrepresentation, cover-up.
17 How do we protect -- the maintenance of the protection of
18 the reputation of the profession is at play. Can we trust
19 educators to tell us the truth? Can I, as an
20 administrator, trust that you're going to tell me the truth,
21 if you're a teacher? And as a teacher, can I trust you as
22 an administrator you're going to tell me the truth? It's a
23 two-way street. We all know that.

24 Clearly, we don't think this is something that
25 warrants a minor sanction. Since it's been made public, we

1 would submit to you the minimum is a public reprimand.
2 Maybe Ms. Watkins bears greater responsibility than Ms.
3 Gigstad in that regard. It was her who decided I can't
4 tell mom. It was her who initially, when going in, lied to
5 the administration. It was her, however, the next day that
6 went back and said, "Hey, wait a minute, I did lie to you."
7 Ms. Gigstad may have gotten caught up in the whole thing,
8 but even then, she chose to follow the lie.

9 So, with that, we'd submit the case to you.

10 THE HEARING OFFICER: Thank you, Mr. Halstead.

11 Mr. Wade.

12 MR. WADE: Thank you, Commissioners. I think
13 it's clear that, well, obviously from Ms. Gigstad being
14 here today and appearing before you and being very sincere
15 and very open and very emotional -- I mean, this has had an
16 impact. And I appreciate and respect what Mr. Halstead has
17 said. It is of importance, obviously, to have the
18 relationship with the parents. It also is of great
19 importance to have the student's best interest in mind, and
20 I don't think the student's best interests were ever
21 ignored. Unfortunately, the statements that were made are
22 the problems -- is the problem as to what was said and to
23 whom it was said and when it was said. But the student is
24 the most important, and the student's well-being and health
25 needs were really of paramount importance and followed.

1 It's not minor, as Mr. Halstead said, nor does
2 Ms. Gigstad believe it's minor that can be ignored. It's
3 not something that would suggest a private admonishment,
4 but I think with what you've heard and with a public
5 reprimand, I think the appropriate sanction would certainly
6 serve -- that would be the appropriate sanction. It would
7 certainly serve the purpose of making it public again,
8 obviously, for her so she would be reminded and everyone
9 would be reminded that she made a mistake. She knows she
10 made a mistake and it's not something you have as a private
11 matter. So, I would ask the Board to seriously consider
12 the public reprimand as the appropriate sanction in this
13 case and she would certainly be willing to accept that.
14 And she wants to go on with her teaching, wants to be back
15 in Nebraska as a certificate holder, but also continue to
16 teach and do what she does best and very, very well with
17 young people and is doing so in Iowa now. Thank you.

18 THE HEARING OFFICER: Thank you, Mr. Wade.

19 Mr. Halstead, anything in response?

20 MR. HALSTEAD: Unlike the first case, I have
21 nothing to respond to to what Mr. Wade said.

22 (Laughter.)

23 THE HEARING OFFICER: Given the fact that we've
24 heard all of the evidence and the closing statements by the
25 parties, do the Commissioners have any additional questions

1 they wish to ask at this time?

2 COMMISSIONER KUPPER: I do, only in clarifying
3 this is a joint case of two individuals and only one
4 individual came. I don't know to what extent I can ask
5 about the absence of Ms. Watkins, because I feel like I
6 know your role and you've been able to speak for yourself.
7 I don't quite feel I have had Ms. Watkins' role and
8 everything that occurred represented as easily.

9 MR. WADE: And that's a fair question. I have
10 advised Ms. Watkins of all hearings, all matters, and given
11 her opportunities to meet with me as Ms. Gigstad has.
12 Those were her choices. I cannot speak for her.

13 CHAIRPERSON STAVEM: Do we know if she remained
14 in education or has found an alternative position?

15 MR. HALSTEAD: When she spoke with the
16 investigator in this case, she was not employed in a K-12
17 education setting. I don't know where she is today, but
18 she is not, to our knowledge, continuing in K-12 education.

19 MR. WADE: That's correct. That's what I
20 understand, too.

21 COMMISSIONER MAHER: I have two questions, then.
22 One is, you spoke a little bit as to you informing her et
23 cetera. Do you represent her, as well?

24 MR. WADE: I do.

25 COMMISSIONER MAHER: And then my second question
05.07.13 State Board of Education 7.10.60

1 is, we heard the cases simultaneously. Can we
2 differentiate between the two as we decide what, if
3 anything to do in these two matters?

4 MR. HALSTEAD: I think you have to apply the
5 facts for each of the educators, the ethical standards for
6 each of the educators, and what you believe is the
7 appropriate disciplinary action for each of the educators
8 even though all the facts came to you in one hearing. I
9 think you still have that responsibility. If, in fact, you
10 believe one is more responsible than another based on the
11 facts as you heard them, you can make that decision. If
12 you believe they're both equally responsible based on the
13 facts that you heard, that's your decision to make.

14 MR. WADE: And I agree with Mr. Halstead in that
15 respect.

16 THE HEARING OFFICER: Further questions?

17 COMMISSIONER KUPPER: One other. And maybe this
18 is to Ann. From what I can tell, the school learned about
19 it because the student teacher felt the need to talk to a
20 college supervisor and that led to the university or
21 college contacting the school. Do you believe had that not
22 occurred that the real events of that day would have come
23 forward to the administration if they had not already heard
24 it from someone else and started investigating?

25 THE RESPONDENT: I think either Keri or myself
05.07.13 State Board of Education 7.10.61

1 would have, because we -- I think we knew -- we both knew
2 that it wasn't a good choice and we would have gone and
3 talked to our administrator. But I don't -- I can't
4 foresee that.

5 MR. WADE: Can't speak for Keri.

6 THE RESPONDENT: I can't speak to that.

7 COMMISSIONER KUPPER: You can't speak for her.

8 THE RESPONDENT: I can't speak for her and I
9 can't speak to a what-if.

10 COMMISSIONER KUPPER: Sure. There's just several
11 days and I assume in that time lapse from that Wednesday
12 when it happened to the Monday when you were called in,
13 someone -- yeah, and so I wondered during that four or five
14 days.

15 THE HEARING OFFICER: Anything further?

16 (No response.)

17 If there are no further questions, the chair will
18 close the hearing.

19 CHAIRPERSON McDONALD: The hearing committee will
20 now adjourn and will consider the evidence. The hearing
21 committee's decision will be reduced to writing. A copy of
22 the hearing committee's findings, conclusions, and decision
23 will be furnished to the parties. If the decision includes
24 a recommendation to suspend or revoke the respondent's
25 certificate, the findings, conclusions, and recommendation

1 will be presented to the State Board of Education. I now
2 declare this hearing adjourned at 1:40 p.m.

3 (Whereupon, the hearing was adjourned at 1:40 p.m.
4 to be reconvened after executive session and deliberation of
5 the evidence.)

6 (Back on the record at 3:33 p.m.)

7 CHAIRPERSON STAVEM: We'll take separate motions
8 for the two cases heard on the consolidated record.

9 First, is there a motion regarding the
10 Commission's recommendation on Case No. 12-08?

11 COMMISSIONER MAHER: Yes. I move that the
12 Nebraska Professional Practices Commission adopts the
13 findings of fact and conclusions of law and recommend to
14 the State Board of Education that the certificate of Ann
15 Gigstad be revoked for a period of one year.

16 CHAIRPERSON STAVEM: Is there a second?

17 COMMISSIONER KUPPER: Second, Kupper.

18 CHAIRPERSON STAVEM: Any discussion?

19 (No response.)

20 Will the clerk please call the roll?

21 THE CLERK: Anglemyer.

22 COMMISSIONER ANGLEMYER: Yes.

23 THE CLERK: Brown.

24 COMMISSIONER BROWN: No.

25 THE CLERK: Johnson. Keller.

1 COMMISSIONER KELLER: No.

2 THE CLERK: Kupper.

3 COMMISSIONER KUPPER: Yes.

4 THE CLERK: Maher.

5 COMMISSIONER MAHER: Yes.

6 THE CLERK: McDonald.

7 CHAIRPERSON McDONALD: Yes.

8 THE CLERK: Schott.

9 COMMISSIONER SCHOTT: No.

10 THE CLERK: Serfass.

11 COMMISSIONER SERFASS: No.

12 THE CLERK: Shelton.

13 COMMISSIONER SHELTON: Yes.

14 THE CLERK: Stavem.

15 CHAIRPERSON STAVEM: Yes.

16 THE CLERK: Passes.

17 CHAIRPERSON STAVEM: Motion passes.

18 Is there a motion regarding the Commission's
19 recommendation on Case No. 12-09?

20 CHAIRPERSON McDONALD: Yes. I move that the
21 Nebraska Professional Practices Commission adopts the
22 findings of fact and conclusion of law and recommend to the
23 State Board of Education that the certificate of Keri
24 Watkins be revoked for a period of one year.

25 COMMISSIONER SHELTON: Second.

1 CHAIRPERSON STAVEM: Moved and seconded, is there
2 any discussion?

3 (No response.)

4 Okay, call the role.

5 THE CLERK: Anglemyer.

6 COMMISSIONER ANGLEMYER: Yes.

7 THE CLERK: Brown.

8 COMMISSIONER BROWN: Yes.

9 THE CLERK: Johnson. Keller.

10 COMMISSIONER KELLER: Yes.

11 THE CLERK: Kupper.

12 COMMISSIONER KUPPER: Yes.

13 THE CLERK: Maher.

14 COMMISSIONER MAHER: Yes.

15 THE CLERK: McDonald.

16 CHAIRPERSON McDONALD: Yes.

17 THE CLERK: Schott.

18 COMMISSIONER SCHOTT: Yes.

19 THE CLERK: Serfass.

20 COMMISSIONER SERFASS: Yes.

21 THE CLERK: Shelton.

22 COMMISSIONER SHELTON: Yes.

23 THE CLERK: Stavem.

24 CHAIRPERSON STAVEM: Yes.

25 Motion passes.

1 (Whereupon, at 3:32 p.m. on March 23, 2013, the
2 proceedings were concluded.)

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Notice dated January 22 2013, for Case Number 12-8, was mailed to Ann Gigstad, Respondent, and Rick G. Wade, Attorney for the Respondent, by U.S. Mail postage prepaid, and delivered by hand to Brian Halstead, Attorney for the Petitioner, on this 22nd day of January, 2013, at the following addresses.

Ann Gigstad
Respondent
P.O. Box 462
Red Oak, IA 51566

Brian Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

Rick G. Wade
McGuire & Norby
605 So. 14th St., Suite 220
Lincoln, NE 68508



Kathi Vontz
Clerk of the Commission

McGUIRE AND NORBY LLP
ATTORNEYS AT LAW

605 South 14th Street, Suite 220
Lincoln, Nebraska 68508
Telephone (402) 434-2390
Facsimile (402) 434-2393

December 24, 2012

Ms. Kathi Vontz
Clerk
Nebraska Professional Practices Commission
PO Box 94987
301 Centennial Mall South
Lincoln NE 68509



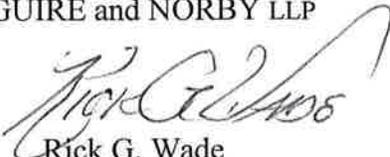
RE: PPC Case No. 12-08

Dear Ms. Vontz:

Enclosed please find an original and two copies of an Answer to be filed in the above-captioned case. Thank you for your attention to this matter.

Sincerely,

McGUIRE and NORBY LLP

By: 
Rick G. Wade

RGW:kmk/kv12-24.ltr

Enclosures

cc: Brian Halstead

3

**BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA**

Roger D. Breed, Ed.D.)
Commissioner of Education)
301 Centennial Mall South - 6th Floor)
P.O. Box 94933)
Lincoln, NE 68509-4933,)

Petitioner,)

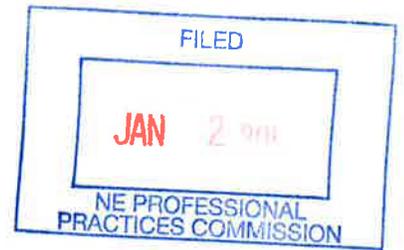
vs.)

Ann Gigstad)
P.O. Box 462)
Red Oak, IA 51566,)

Respondent.)

PPC Case No. 12-08
Case No. 12021

ANSWER



COMES NOW the Respondent, Ann Gigstad, P.O. Box 462, Red Oak, Iowa 51566, by and through her undersigned attorneys of record, and hereby answers Petitioner's Petition as follows:

1. Admits paragraph 1 of the Petition.
2. Admits paragraph 2 of the Petition.
3. Admits paragraph 3 of the Petition.
4. Admits that portion of paragraph 4 insofar as Respondent did not initially fully disclose to the administrator what had happened with a student's allergic reaction but did disclose thereafter what did happen as best known by Respondent, and further, accompanied the student's teacher, Keri Watkins, to the nurse for medical attention and to contact student's parent.
5. Admits that the Board has specific authority to issue sanctions including an admonishment, reprimand, revocation or suspension of any teacher's or administrator's certificate. Respondent specifically denies that her conduct constitutes violation of all standards

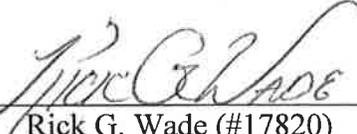
as identified in paragraph 5 of Petitioner's Petition and specifically alleges that she did take reasonable effort to protect the student from conditions which interfere or are harmful to students' safety.

WHEREFORE, Respondent requests that the Professional Practices Commission take such action regarding the certificate of the Respondent as is warranted and make a recommendation to the Board of Education accordingly.

Dated this 24TH day of December, 2012.

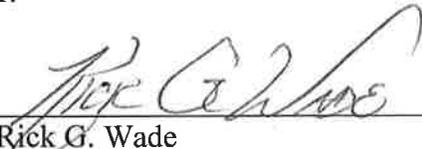
ANN GIGSTAD, Respondent,

BY: McGUIRE and NORBY LLP
Respondent's Attorneys
605 South 14th Street
Suite 220
Lincoln, Nebraska 68508
Telephone (402) 434-2390

By 
Rick G. Wade (#17820)
One of Said Attorneys

CERTIFICATE OF SERVICE

On this 24TH day of December, 2012, a copy of the foregoing Answer was served by regular United States Mail, postage prepaid, to Mr. Brian Halstead, General Counsel, Nebraska Department of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, Nebraska 68509-4933, attorney for Petitioner.


Rick G. Wade

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D.)
Commissioner of Education)
301 Centennial Mall South - 6th Floor)
P. O. Box 94933)
Lincoln, NE 68509-4933)

Petitioner,)

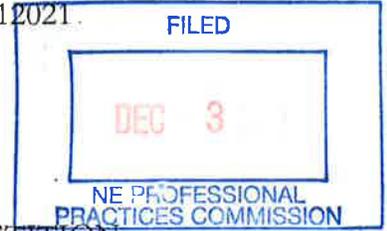
vs.)

Ann Gigstad)
P.O. Box 462)
Red Oak, IA 51566)

Respondent.)

PPC Case No. 12-08

Case No. 12021



PETITION

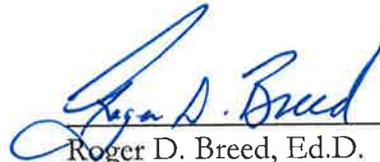
Petitioner, in accordance with Section 79-859 through 79-871 of the Revised Statutes of Nebraska, Title 95, Chapter 01, of the Nebraska Administrative Code, and Title 92, Chapters 27 and 28 of the Nebraska Administrative Code, states and alleges as follows:

1. The Petitioner is Roger D. Breed, Commissioner of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, NE 68509;
2. The Respondent is Ann Gigstad, P.O. Box 462, Red Oak, IA 51566;
3. The Respondent holds two public Nebraska certificates: 1) Standard administrative number 2012003639, endorsed as Principal PK-8, Elementary Education K-6, and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017; 2) Professional teaching number 2007003479, endorsed in Elementary Education K-6 and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017;
4. On or between April 18 and 24, 2012, the Respondent failed to be truthful when questioned by administrators at the Millard Public Schools about a student's allergic reaction which occurred at school; and
5. Based upon the factual allegation contained in paragraph 4 of the Petition, the Respondent violated the following statute and standards: Neb. Rev. Stat. Section 79-866(2) (Reissue 2008) which in part states, "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or

suspension of a teacher's or administrator's certificate by the board"; Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.02D (effective date: November 12, 2003), which states, "the educator: Shall not make any fraudulent statement or fail to disclose a material fact for which the educator is responsible"; Section 004.02H (same effective date) which states, "the educator: Shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties"; Section 004.03C (same effective date) which states, "the educator: Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety"; and Section 004.04F (same effective date) which states, "the educator: Shall, with reasonable diligence, attend to the duties of his or her professional position".

WHEREFORE, the Petitioner requests that the Professional Practices Commission hold hearings and make recommendations to the State Board of Education as is warranted, regarding the certificate(s) of the Respondent.

Dated this 26th day of November 2012.


 Roger D. Breed, Ed.D.
 Commissioner of Education

VERIFICATION

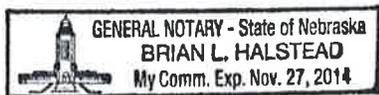
STATE OF NEBRASKA)
) ss.
 COUNTY OF LANCASTER)

I, Roger D. Breed, being first duly sworn under oath, state that I have read the contents of the Petition and that to the best of my knowledge, information, and belief such contents are true.


 Petitioner

Subscribed and sworn to before me this 26th day of November 2012 by Roger D. Breed, Commissioner of Education, as Petitioner.


 Notary Public



U

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Petition and a copy of Title 95, *Nebraska Administrative Code*, Chapter 1, was mailed to the following persons, postage prepaid, by certified mail, return receipt requested, this 3rd day of December 2012:

Ann Gigstad
P.O. Box 462
Red Oak, IA 51566
Article Number 7011 1150 0001 8406 3606

Rick Wade, #17820
Attorney at Law
605 South 14th Street, Suite 220
Lincoln, NE 68508
Article Number 7011 1150 0001 8406 3613



General Counsel

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D.)
Commissioner of Education)
301 Centennial Mall South - 6th Floor)
P. O. Box 94933)
Lincoln, NE 68509-4933)
)
Petitioner,)
)
vs.)
)
Ann Gigstad)
P.O. Box 462)
Red Oak, IA 51566)
)
Respondent.)

Case No. 12021
PPC Case No. 12-08



NOTICE OF RIGHT
TO SUBMIT ANSWER

Notice is hereby given that Respondent has a right to submit an Answer within 21 days after the receipt of this Notice by filing an Answer with the Nebraska Professional Practices Commission, P. O. Box 94941, Lincoln, NE 68509.

Brian L. Halstead #18077
General Counsel
Nebraska Department of Education

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Notice was mailed to the following persons, postage prepaid, by certified mail, return receipt requested, this 3rd day of December 2012:

Ann Gigstad
P.O. Box 462
Red Oak, IA 51566
Article Number 7011 1150 0001 8406 3606

Rick Wade, #17820
Attorney at Law
605 South 14th Street, Suite 220
Lincoln, NE 68508
Article Number 7011 1150 0001 8406 3613

Brian L. Halstead #18077
General Counsel
Nebraska Department of Education

NEBRASKA DEPARTMENT
OF EDUCATION

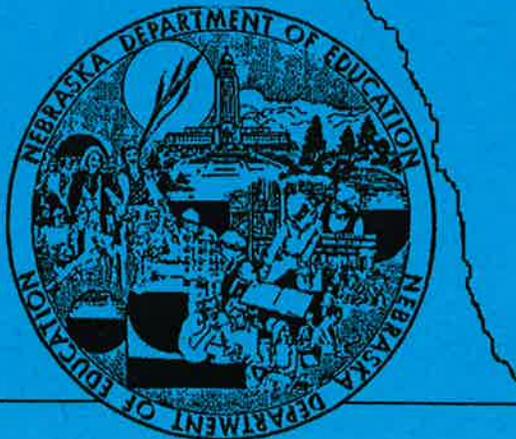
RULE 27

REGULATIONS AND STANDARDS FOR
PROFESSIONAL PRACTICES CRITERIA

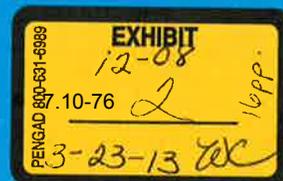
TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 27

EFFECTIVE DATE
November 12, 2003
(REVISED)

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner



05.07.13 State Board of Education



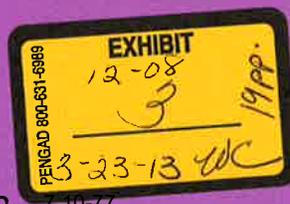
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

TITLE 95, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 1

REGULATIONS CONCERNING
TEACHER AND ADMINISTRATOR
PROFESSIONAL PRACTICES HEARINGS



Effective Date
October 30, 1993



NEBRASKA DEPARTMENT
OF EDUCATION

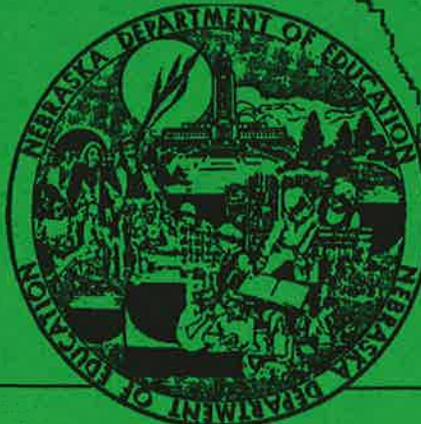
RULE 28

REGULATIONS AND STANDARDS FOR
INVESTIGATIONS AND NONPUBLIC
PROFESSIONAL PRACTICES HEARINGS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 28

EFFECTIVE DATE
DECEMBER 25, 1989

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner



NEBRASKA DEPARTMENT
OF EDUCATION

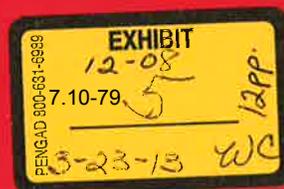
RULE 29

REGULATIONS AND STANDARDS FOR
PROFESSIONAL PRACTICES CASE
DETERMINATIONS BY THE STATE BOARD

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 29

EFFECTIVE DATE
DECEMBER 25, 1989

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner



BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

Dr. Jim Sutfin
Millard Public Schools
5906 S. 147th Street
Omaha, NE 68137

Complainant,

vs.

Ann Gigstad
15740 O Circle
Omaha, NE 68135

Respondent.

Case No. 12021

REPORT OF INVESTIGATION

In accordance with Title 92, *Nebraska Administrative Code*, Chapter 28, the attached Report of Investigation into case number 12021 is submitted to the Commissioner of Education on this 26th day of November. The Report was submitted to the Respondent on the 26th day of October 2012, and no exceptions were filed.

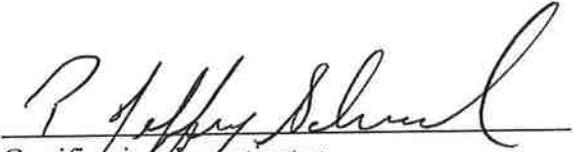

Certification Investigator

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JURISDICTION

On May 8, 2012, Jim Sutfin filed a Complaint with the Commissioner of Education against Ann Gigstad, the Respondent. A copy of the Complaint was served upon the Respondent on May 11, 2012. Copies of the Complaint and return receipt are collectively attached and marked as exhibit "E-1".

The Teacher Certification Office Records revealed that the Respondent holds two public Nebraska certificates: 1) Standard administrative number 2012003639, endorsed as Principal PK-8, Elementary Education K-6, and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017; 2) Professional teaching number 2007003479, endorsed in Elementary Education K-6 and Mild/Moderate Disabilities K-9, with an expiration date of August 31, 2017.

SUMMARY OF COMPLAINT

The Complainant alleged that the Respondent failed to be truthful when questioned about a student's allergic reaction which endangered the health of the child.

POSITION OF RESPONDENT

The Respondent, through her attorney, requested a personal conference in this matter. The Respondent admitted to the allegation in this matter.

FINDINGS

The Complainant is the Assistant Superintendent with the Millard Public Schools (MPS). Records indicate the Respondent was employed by the school district at Walt Disney Elementary as a special education teacher beginning in 2002 until her resignation effective at the end of the 2011-2012 school year.

The complaint stated on April 18, 2012, around 11:30 a.m., the Respondent, her co-teacher Keri Watkins, student teacher Becca Suiter, and three paraeducators were in a classroom teaching special education students. The Respondent was working on one project, and Ms. Watkins was working with students having them make peanut butter and jelly sandwiches. A non-verbal student was taking part in making the sandwiches, took a bite, and had an allergic reaction to the peanut butter. Ms. Watkins and the Respondent took the child to the nurse's office and called the student's parent. Ms. Watkins and the Respondent told Principal Bethany Case-Magana, Nurse Desirae Smith, and the student's parents they did not know how the child had come into contact with any peanut product unless it was in the lunchroom. Further interviews after the incident revealed the peanut butter and other supplies had been discarded and hidden in a diaper pail, and the three paraeducators and student teacher had been told to lie. The Respondent continued to lie when interviewed on April 23 and finally on April 24 admitted to the fact that the student had eaten the peanut butter sandwich in class.

The Department subpoenaed documents from MPS. Notes taken by Principal Case-Magana indicate there was a meeting at 2:30 p.m. on Monday, April 23, 2012. Besides the principal, also in attendance was the Complainant and Ms. Watkins, who was an Alternate Curriculum Teacher for Disney Elementary School. The Complainant asked questions of Ms. Watkins. The following exchange took place between the Complainant (JS) and Ms. Watkins (KW) according to Mrs. Case-Magana's notes:

JS There is an allegation that needs to be investigated regarding an incident in your classroom with peanut butter.

KW Yes, we taught a lesson /S/ is for sandwiches, we made peanut butter and jelly, I forgot I had a student with a peanut butter allergy. I didn't realize it until I got back from lunch. I went to my desk and looked and saw M. had a peanut butter allergy. I brought him to the office and told Mrs. Magana he is having a reaction. I told his mom I didn't know what he had gotten into. I was afraid what would happen since we worked so hard to build that relationship.

JS What did you report to Mrs. Magana?

KW I lied to her and said that I didn't know what he got into, even when she asked what he had contact with several times. "Bethany, I'm so sorry for lying to you."

JS What did you ask the paras to do?

KW I asked them to lie also, we put away the peanut butter and got rid of the trash.

JS What did you tell the nurse?

KW I lied to her and told her I didn't know what caused it and what he got into.

JS What did you tell Ann Gigstad, the other teacher?

KW I went to her and asked her for advice what to do. "I made a horrible mistake, I'm so sorry." Ann Gigstad told me to call mom and tell her you don't know what he got into. Ann Gigstad told her paras what to say too. We all need to have the same story is what Ann said.

JS What did you tell your student teacher?

KW I told her to lie as well.

Mrs. Case-Magana's notes indicate another meeting was held at 3:10 p.m. on Monday, April 23, 2012. The notes indicate the principal, the Complainant, and the Respondent were present during that meeting. Again, the Complainant (JS) asked the questions and the Respondent (AG) supplied the answers. Parts of Mrs. Case-Magana's notes are as follows:

JS Ann I want to talk to about an incident last week about peanut butter?

AG Peanut butter? I thought it was something in the lunchroom.

JS We were told that you were well aware of what happened.

AG We had an activity where we made sandwiches and we did use peanut butter. M. could have got it from the table.

JS When he had a reaction to the peanut butter what did you do?

AG I walked down to the office with Keri. I didn't stay and I didn't hear the specific conversation.

JS What did you tell your paras?

AG I told them it was confidential and if someone saw him in the hallway we couldn't discuss it – I think I said don't tell everyone in the building – as far as rumors – I don't know the specifics.

JS Were you and Keri together when you told the paras?

AG no response, then, I think so, we told them we think M. ingested peanut butter.

The subpoenaed documents contained notes of Chad Meisgeier from a meeting that took place on Tuesday, April 24, 2012, at 3:00 p.m. Present for that meeting were the Complainant, Respondent, MPS Director of Employee Relations Chad Meisgeier, and Millard Education Association Director Jackee Wise. The Complainant is JS and the Respondent is AG. The following exchange took place according to Mr. Meisgeier's notes:

Jackee Wise – she wants to make a statement first.

AG Yesterday I was not myself. Not accurate in my answers.

Appreciate chance to come back and clear up. I apologize and take responsibility.

JS Tell me about what happened, started with blow up in your room?

AG Keri had kids most of morning. "S" is for sandwich. M. ate. I didn't see him eat, but Keri told me he took a bite and spit it out. My story was not accurate yesterday.

JS You told the same story yesterday as was told to the parent?

AG I don't remember saying that yesterday. My advice to Keri. We agreed to call the parent. We were scared because we made a mistake so we made a bigger mistake. We agreed to the story, don't remember who's idea it was, maybe it was mine. Look back, hindsight 20/20 wish we could change things. I did not say anything to Bethany. We walked to classroom. We told them (paras) this is what we told the mom, we will not talk about making P&J sandwiches.

We did essentially tell them to lie.

Didn't want paras to talk in hallway.

Told them don't tell about lesson on peanut butter.

Put the trash in the trash can.

Put all in diaper trash can later.

Because feces from earlier in the day.

Yes, we wanted to hide it.

We didn't talk to all seven at once, but we did talk to all.

Telling paras don't talk is like other cases, didn't specifically tell them to lie.

Don't remember talking about confidentiality at lunch.

Told student teacher – let's keep this on the down low & let's not talk about peanut butter sandwiches.

Was a poor choice.

I was scared so I didn't come forward.

I was scared about not being honest.

I know we made a horrible mistake.

JS If ambulance had come, how would you have handled differently?

AG Would have done differently and told truth. Mom had said a couple of years ago problem if come in contact with peanut butter.

JS 10-15 lies yesterday, are you telling truth now because you know we talked to Keri?

AG I assumed you talked to Keri yesterday.
As I was leaving I saw her and waved but didn't talk.
We spoke last night.

JS You understood my directive yesterday was not to speak to Keri.

AG Last night we only talked about are you okay.
She did say it was M. situation.
I told her I don't know what I said.
I talked about being scared.
I told her I don't know if I was honest.
I feel horrible; I want to be honest today.
I take responsibility for that.
I don't remember denying yesterday.
I remember arguing about closure.
I would have handled it all differently.
Yesterday and the student.
I don't know why I didn't go to Bethany.
I feel like I have thrown it all away.
I didn't think.
I didn't come forward during the week.
Thought student and everything was okay.
Correct when you (JS) say I used my position of power over paras and student teacher
Don't see my position as one of power.

JS Can't tell you will save your job by coming forward today. Is it a fireable offense, it could be, but want to look more.

AG Couldn't live with myself if not honest today.
Trust me; this is a life changing experience.

Documents obtained from the subpoena indicate MPS Human Resources Recruiter Mrs. Jeanine Beaudin also conducted interviews and interviewed Nurse Smith on April 23. Mrs. Smith told Mrs. Beaudin she was at Andersen Middle School when she received a call from Mrs. Case-Magana telling her a non-verbal student had an allergic reaction, and asked Mrs. Smith to be in route to Disney Elementary and review the procedures regarding hives. Upon arrival, M. was in the office and Mrs. Smith observed a "mild rash on his arms and the back of his neck". M. was scratching but there was no distress. There was another adult with M. but because this was Mrs. Smith's first year at Disney she did not know if the adult was a teacher or para. Mrs. Smith asked if M. was allergic

to anything, and Mrs. Case-Magana advised her he had a peanut allergy. The adult stated they were not sure what M. had come into contact with but it could have been another student's granola bar. The mother of M. arrived to take him to the doctor.

Mrs. Beaudin interviewed student teacher Becca Suiter on Tuesday, April 24. Ms. Suiter stated the students in the Respondent's classroom were learning about the letter "S" and using the word sandwich. Each student was given peanut butter and strawberry jelly to make the sandwich. Students, including M., tried their sandwich. The students went to lunch and when they returned M.'s eyes were very puffy and red and he was breaking out in hives. Ms. Suiter stated Ms. Watkins looked up M.'s file and found he was allergic to peanuts. Ms. Watkins and the Respondent went to the office and Ms. Suiter believed it was to call M.'s mother. When Ms. Watkins and the Respondent returned to the classroom they appeared "stressed" and stated they couldn't tell anybody about what occurred and they took M. to the office to wait for his mother. Ms. Suiter stated:

When Keri returned, I was informed by Keri that she told the principal and mom that she did not know what he came in contact with or when. Keri told me that I can't tell anybody about this and stated that my mom will think she's nuts. My mom is a principal at St. Roberts.

Keri hid the trash that contained material from the peanut butter lesson.

When the paras came back from lunch, Keri Watkins and Ann Gigstad told myself and the 4 paraprofessionals not to tell anyone about the peanut butter lesson or what actually caused M.'s outbreak

When Keri, Ann, and I were having lunch together Keri mentioned to Ann that they have to talk to the paras about confidentiality.

The investigator contacted the Complainant on September 25, 2012, and asked how he became aware the Respondent may have not been truthful. He wrote, "When the two staff members hid the evidence they went specifically to the staff and a student teacher and told them not to say anything. The student teacher went her college advisor and reported it and what was told to her about being quiet. The university called me."

The investigator interviewed Rebecca Suiter via email who answered the investigator's questions on October 24, 2012. Ms. Suiter stated she was student teaching for Keri Watkins. According to Ms. Suiter, there were diaper issues on the Respondent's side of the room and while the clean-up was occurring she continued to assist Ms. Watkins. Ms. Suiter believes M. did go to his "special" that morning, which would have been art class, but she stated, "He may have come in later but I watched him make the peanut butter and jelly sandwiches with the rest of the kids." When asked if she saw M. eat, lick, or ingest the peanut butter she answered, "Yes I did. Every student was encouraged to try their sandwich." Ms. Suiter did not know who placed the remnants of the activity into

the trash can and couldn't remember if it was the same pail as the diapers. When asked about Ms. Watkins and the Respondent speaking with her at lunch about the incident, Ms. Suiter stated:

Lunch was around 1. They told the paras and me that it would be easier to keep it quiet. During our lunch, Keri also told me that, my mom, who is an administrator, would freak out if she heard this story. When M. had the reaction and was down at the nurse, both said they did not know how he could have had the reaction.

Ms. Suiter stated that she subsequently told her college advisor about the incident and believes that person contacted MPS.

Keri Watkins was interviewed by the investigator on October 17, 2012, in the office of her attorney. Ms. Watkins stated she has been teaching special education for MPS since August of 1999. Ms. Watkins advised, "I was alternate curriculum which is special ed for mild to severely mental and physical disabled children. I started in that capacity and resigned also doing the same thing." Ms. Watkins stated she has taught in the same classroom as the Respondent for 10 years. According to Ms. Watkins, most of the time the children were in the special education classroom but if it was appropriate some children were mainstreamed into other classrooms. Ms. Watkins stated the Respondent taught the younger children, usually kindergarten through 2nd grade, and she taught the older children through the 5th grade.

Ms. Watkins stated this was the third year she had taught M., who was in the 5th grade. According to Ms. Watkins, M. had gone to art class with her three other 5th grade students and she was working with the rest of the students making peanut butter and jelly sandwiches. Ms. Watkins stated:

Yes we were actually, he entered the classroom with a para, he was coming back from art, um we were actually cleaning up the table from the activity, he came in and sat down and grabbed a bread with peanut butter yet on it that I had not cleaned up, I think my back was to him, helping another student. Um but I did see him lick it and throw it away.

Ms. Watkins stated it was a hectic Wednesday morning in that the Respondent had a child who normally wears a diaper to school who was not wearing one that morning and defecated on herself, the rug, and the floor. While the Respondent, her paras, and one of the Ms. Watkins' paras were attempting to clean that part of the room and the child, the remainder of the Respondent's students went to Ms. Watkins' side of the room. When the 5th graders began returning to the classroom Ms. Watkins was trying to clean up the sandwich activity; the para had taken a child to the restroom; Keri was left with around 9 students; and turned just as M. was licking the bread. Ms. Watkins stated:

M., I'm guessing came in, sat down, he did grab a bread with peanut butter, and I, he didn't take a bite, he licked it, threw it away, he doesn't even like that, I can't even believe that he did it. Um but everybody else was at the table, he you know, watched. And um it didn't dawn on me. I, we get cleaned up, we go to lunch, he comes back, he starts, so it's now 12, he probably does this {grab bread with peanut butter} at 11:30 or so. We get ready, go to lunch, he comes back about 12:05 or 12:10, I notice him fidgeting, he can't sit still, I go over to help him get started, and I noticed he has red bumps on the back of his head, and he keeps itching. Um and it dawns on me right away. Oh boy, he maybe he has a peanut allergy. Yes, I looked on Infinite Campus. He was flagged; I had forgotten; um and right away I go to Ann.

She says, well, did he come into anything; did he come into contact with anything at lunch time? Could he have? And I was like, oh maybe. I took him to the nurse's office.

The investigator asked if the classroom contained any EpiPens and Ms. Watkins stated no. When asked what she and the Respondent did next, Ms. Watkins stated:

She went with me, right away I took him into the office, um no, first we went, well I think, I first called his mom, before I took him to the nurse. And I said, I think M. got into peanut butter or something, I think he's having an allergic reaction. She said, I'll come and get him, and take him to the doctor. And she did. Then uh I think we just sat out in the waiting room. Bethany {Principal} was, or the lobby, Bethany was there.

Ms. Watkins stated paras were left in charge of the classroom and once at the office the Respondent went back to the classroom while Ms. Watkins waited for the mother. When asked what happened with the supplies used to make the sandwiches, Ms. Watkins stated:

For, right after the activity it went right on a blue shelf which one wall in my classroom, it's open, so there's windows, there's blue shelving, it sat right there. It did not get put away until...

According to Ms. Watkins, the sandwiches the students didn't want were placed in the trash. Ms. Watkins stated the trash is different than the diaper pail and continued:

It wasn't until later on, I don't even know, I think this happened when I was out of the classroom, so I can't even be sure, but someone did put all the trash bags into the diaper pail.

When asked if she knew why the sandwiches were placed in the diaper pail, Ms. Watkins stated, "To hide."

Ms. Watkins stated to her knowledge no one checked to see if M. could have come into contact with something he was allergic to while in the lunchroom. Ms. Watkins advised children don't have to eat the school lunch, and they can bring their own.

The investigator read from part of the complaint in which Ms. Watkins had lied and stated she didn't know how M. had come into contact with any peanut butter. Ms. Watkins replied:

That is true. And I think because of the hecticness of the day, and I think we were just trying to get through the day and wanted the day over, and I knew, that the student the parent was coming, he was going to the doctor, and the student was going to be ok, and it was kind of, it was bad judgment, and it was a mistake, and um I feel sorry about that every day.

When asked if she knew about M.'s allergy, Ms. Watkins stated:

I think probably when I got him in third grade it was something that I knew and I, just never really did much with peanut butter or anything and he doesn't eat a lot, he eats like chicken and bacon with ketchup and fruit. He has a small you know list of a few things that he eats and so it had never become an issue.

When asked what she told the Complainant when she was interviewed the following Monday, April 23, 2012, Ms. Watkins stated:

That yes I had, we had lied, we had hidden it, that yes he did get into the peanut butter in the classroom; I was very upfront.

Ms. Watkins stated she was placed on paid leave that day and met with the Complainant the next two days. Ms. Watkins believes the reason she was called in the next two days was just for clarification because she had admitted to everything on Monday. When asked what she would do differently, Ms. Watkins stated:

Just be upfront about the situation, absolutely. I think in my position I had become, I mean, things happened so fast and in that classroom it seems like putting out fires all day every day. And it had just kind of become like that. And in looking back, I've had plenty of time to do that, um to us it was just another fire. I knew M. would be ok and um I feel sorry every day.

The Respondent was interviewed on October 17, 2012, and advised she has been teaching students in special education for 17 years, the last 10 of which had been at MPS. The Respondent stated she and Ms. Watkins shared a room that was divided by a floor to ceiling partition wall that had an open end that formed a pathway between the two classrooms.

The Respondent stated she taught M. as a kindergartner. When was asked if she was aware of M.'s peanut allergy and if it was on his charts, the Respondent stated:

I think it was. I think in kindergarten it was discussed but at that point he never, mom said he's never had peanuts so we're not sure how he will react; it showed up on an allergy test.

No, I think mom had even said at one time they had peanuts at home, he just didn't choose to eat them. Um, he, I, he had a, he brought his own lunch every day. I wouldn't say it was a special diet. He brought his own lunch every day because he's a very picky eater, um due to a lot of the texture things. A lot of these students with disabilities, it's a texture thing. So mom just packed his own lunch every day because she packed things that she knew he would eat.

The Respondent stated the day began with a couple of her students having problems, one which took some time to resolve. The Respondent stated Ms. Watkins was leading an activity about the letter "S", and the students were making peanut butter and jelly sandwiches. Because of the situation the Respondent was dealing with in her room, her students had gone to Ms. Watkins' side of the room and some were taking part in the making of sandwiches and others had gone to art. When was asked if M. had gone to art, the Respondent stated:

Yes, to my knowledge, from what I had been told. I didn't keep track of his schedule, so but I know when I went back into where the activity was, from what he was not at the table at that point.

The Respondent stated M. was the only one in the classroom with a peanut allergy, and she did not see M. consume or handle the sandwich. The Respondent stated that it was after M. had returned from lunch that she believed Ms. Watkins noticed the reaction. When asked if she looked at the reaction, the Respondent stated:

Um I did not look up close, she {Ms. Watkins} was at her desk and you know we kind of met in the middle of our room, and she came to me and said "oh my gosh, I just realized I forgot he had a peanut allergy, it's M., what do we do?"

Um well she said, she says "I think he grabbed a sandwich when he came back in" and she said he didn't eat it, he put it to his mouth and he spit it out.

Well what do we do, I think we didn't stop and think, I didn't, it was oh my gosh, you know, number one is he ok; what do we need to do; I think that was, and it was ok we need to call mom; he probably needs to go to the health room; mom will decide if he needs to go to the doctor; that kind of thing. And I think you know it was, no, we didn't tell mom that he had the peanut butter in the classroom because the past experiences with this parent very critical, very, I think we thought if we just take care of him, then it won't cause a problem for everybody.

Keri and I went down to the office; I was in the room when she called the parent.

The Respondent was asked where M. was at this time and she stated:

In the classroom. I believe the student teacher was with him.

Her name was Becca, Rebecca Suitor I believe. And so Keri told mom, he's had a reaction, I think maybe he got into peanut butter in the lunchroom. Um and then we went back to the classroom I then stayed in my classroom, and she then took M., down to the health room and that was the last I had any contact with M.

When asked if Ms. Watkins told her where M. had gotten the peanut butter, or if the Respondent suggested they report the possibility M. had gotten it in the lunchroom, the Respondent stated:

Yes I think we talked about that, and said where did he just come from, he came from the lunchroom. I don't recall if I said let's say it was in the lunchroom, or where, or how that conversation.

The Respondent indicated that on Monday, April 23, her husband called her and told her he needed to go to the doctor's office because he was ill. The Respondent said this concerned her because her husband is never sick and so she was going to check with the principal and see if she could leave right after the students were dismissed. The Respondent had been at another school site and when she returned to Disney Elementary she went to the office to speak with the principal. The secretary told the Respondent the principal needed to see her. The Respondent stated she walked in and present was Disney Elementary Principal Bethany Magana and the Complainant. The Respondent stated she began telling Ms. Magana about her concern for her husband and said Ms. Magana said, "If he's that sick he better call 911. Sit down."

When asked if the Respondent knew who the Complainant was, she stated:

I did, um, I've known him through leadership academy at Millard, so I did know who he was. He did introduce himself and started the conversation and I, I'm sure you probably read this, I don't recall much of that conversation. I was, I had no idea what they were going to start talking about, he started asking me questions and I physically shut down, I don't know how else to describe it and the one thing I do remember him saying to me is, did you tell the paras they had to lie to Mrs. Magana? And I said no, I didn't tell anybody they had to lie, and that's, that's the only thing that I specifically recall other than he said well you need to go, don't come to work tomorrow, I'll see you, I'll be contacting you.

The Respondent stated she was placed on paid leave and told not to speak with the Respondent or paras about the incident. The Respondent stated:

And Keri and I did speak, we did not really talk much about our conversations, it was more she said, "How's your husband?" Um, we were very good friends, um and I think it was more of a, oh my gosh, we're scared, concerned for each other. Um, I, my recollection of that conversation was it wasn't like well this is what I told him, this is what you told him, it was how's your husband, is he ok, are you ok? Yeah I'm ok, we'll talk later. And that was it.

When asked if she and Ms. Watkins had directed the paras or the student teacher on Wednesday, April 18 about confidentiality and not speaking about the peanut butter incident, the Respondent stated:

Yes, and I, we have always told the paras that, my concern was that they would go to the teachers' lounge and somebody would say, why is M. in the nurse's office? And any, the reason any student's in the nurse's office does not need to be discussed in the teachers' lounge, anything like that, so yes we told them that, this is what we told the parent; it didn't need to be discussed, um I think through the questioning with Dr. Sutfin I feel like I wasn't maybe clear with that, yes we did say it was due to confidentiality but not because it was this big yes we knew we weren't truthful with the parent but it was more, just like with K., I told him the same thing with K. that morning, if people ask what went on in your room, you had the vacuum cleaner in there, we saw K. leave, nobody needs to know what went on with that student, so I guess that's where I was coming from with that and never once did I say if or at least that I recall if the principal asks you what happened that you have to lie.

When asked if she considered it lying to M.'s parent by not telling where he had consumed the peanut butter, the Respondent stated:

I think we didn't want to tell the parent that we made a mistake and have the peanut butter in the classroom.

The Respondent believes she met with the Complainant three times. On one occasion the Complainant asked her why she hadn't gone to the principal in the first place. The Respondent stated:

You know, I made a mistake, it was a bad judgment, I knew that. Um and as I look back I think, emotionally when I tried to talk to my principal about this other student, and her reaction was, kind of to blame me, the thought of going and saying again, I made another mistake, that's why I didn't tell her, and I think also Keri and I had gotten good at what we do as far as teachers and handling things and keeping things going and handling the day-to-day issues that come about and it was just, we could handle this.

The Respondent stated she did not lie to the Complainant on Tuesday, April 24, but said the Complainant did ask her about lying the day before. When asked if the Complainant had said something to her about lying the day before, the Respondent stated:

Yes. And my comment to him was, I don't remember that conversation, I told him what I told you, this is what I remember you asking. I remember his comment was, if that's all you remember you were in a bad place. And I said, I apologize, I was not, on Monday it was not my intent to create a story, to continue a lie, um I just didn't know, I.

When asked what occurred at the final meeting held with the Complainant on Wednesday, April 25, the Respondent stated:

Um talked about how this you know, I expressed my again, my apologies, my remorse, I know that I made a mistake, take responsibility, um he made it very clear that we were not, I don't know if fired is the right word, but I'm not ending your contract.

When asked if she could change anything about the incident what would it be, the Respondent stated:

Take a deep breath, tell Keri we made a mistake, it's ok, everybody makes a mistake, and go talk to our principal and say, this is what happened, we made a mistake, and call the parent and tell them. And every day I replay that.

When asked if she had a final statement, the Respondent stated:

Sure, I think, I love teaching, I love those kids that were in that classroom and knowing that this lack of judgment, this one judgment call that I made has not only affected me but affected them, makes it really hard. Cuz I know it's not easy for them to have change and all that. I guess I feel like for most on any other given day I've made good decisions and we know that we have to make lots of fast quick decisions and I do a good job at that. I thought I did a really good job of it but now I really learned I can make a mistake and as I have gone on and have my new position and continue to teach I think I, I think differently, I mean I've really learned from this experience as far as I have to even if it's a split second decision I have to take that split second and think about it. And just think through the things that happen on a day to day basis. And again just foster those, that communication and that rapport with the parents and um and my principal and just being upfront and honest and that's, I know I couldn't go into a position not being upfront about everything. I think I'm a good teacher I feel, I feel like I've done a lot of good things with kids and I want to continue to do that, and I want to continue to grow and help others and um just take what I've learned and move on.

On April 27, 2012, the Respondent entered into a Severance Agreement with the MPS resigning her employment at the end of the 2011-2012 school year. Copies of the severance agreement and resignation letter are collectively attached and marked as exhibit "E-2". The Respondent and her attorney wanted to make note of a letter of recommendation dated May 1, 2012, written by the Complainant that praises the Respondent for her teaching ability. A copy of the letter is included as exhibit "E-3".

STANDARDS OF PROFESSIONAL CONDUCT AND ETHICS

The following standards would appear applicable: Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.02D (effective date: November 12, 2003), which states, "the educator: Shall not make any fraudulent statement or fail to disclose a material fact for which the educator is responsible"; Section 004.02H (same effective date) which states, "the educator: Shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties"; Section 004.03C (same effective date) which states, "the educator: Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety"; and Section 004.04F (same effective date) which states, "the educator: Shall, with reasonable diligence, attend to the duties of his or her professional position".

DETERMINATION OF LEGAL SUFFICIENCY

Evidence indicates that although the Respondent was not involved in the student having access to peanut butter, once told about the incident the Respondent conspired to alleviate herself and the other teacher from any responsibility in connection to the incident. This included lying several times to administrators and advising subordinates about what had been said to the mother of the student and how the incident fell under confidentiality rules so as to not say anything about the incident. There is legally sufficient evidence to indicate a violation of the standards with regard to this allegation.

RECOMMENDATION

Although the investigation reveals the Respondent is truly remorseful and has taken responsibility for her actions in the incident, the Certification Investigator would recommend the Commissioner of Education file a petition with the PPC.

EXHIBITS

- E-1. Copies of the Complaint and return receipt.
- E-2. Copies of MPS documentation.
- E-3. Letter of recommendation.

BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

Dr. Jim Sutfin)
Name)
5906 S. 147th St.)
Address)
Omaha, NE 68137)
Complainant,)
vs.)
Ann Gigstad)
Name)
15740 O Circle)
Address)
Omaha, NE 68135)
Respondent.)

Case No. 12021
(Leave Blank)

COMPLAINT

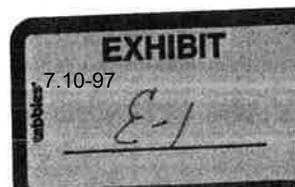


In accordance with Title 92, Chapter 28, of the *Nebraska Administrative Code*, the Complainant states as follows:

1. The Complainant is Dr. Jim Sutfin, Assistant Superintendent Human Resources Millard Public Schools Phone# 402-715-8200 ;
2. The Respondent is Ann Gigstad, teacher Millard Public Schools Phone# 402-861-4093 ;
3. See attached

and

4. Witness(es) Dr. Jim Sutfin, Ann Gigstad, Bethany Case-Magana



State of Nebraska Commissioner of Education Complaint form attachment:

#3 - On or about April 18, 2012 (around 11:30 AM), Ms. Gigstad was working on a different project while her students attended a lesson taught by her teammate Kari Watkins in which students were making peanut butter and jelly sandwiches. As a part of the lesson, a non-verbal student who is allergic to peanut butter took a bite of a sandwich and had an allergic reaction. When apprised of the situation by Ms. Watkins, Ms. Gigstad along with Ms. Watkins took the student to the nurse's office and called the parent. They told the principal, nurse and parent that they did not know how the student came into contact with any sort of peanut product unless he had gotten it from a table in the lunch room. When specifically asked about whether the child had come into contact with peanut butter she lied. All of the peanut butter and other supplies were discarded and hidden in a diaper pail. Three paraeducators and one student teacher were told that they were not to talk about this with anybody and that the office was told that they did not know where the student could have come into contact with the peanut butter unless it was from a lunch table.

Ms. Gigstad's failure to truthfully disclose the source of the allergic reaction endangered the health of the child. When interviewed by the District on April 20, Ms. Gigstad continued to lie regarding the facts related to April 18, 2012. In a subsequent interview on April 24, Ms. Gigstad admitted to the facts listed above.

WHEREFORE, Complainant requests that the Commissioner of Education investigate this Complaint and take such action as is warranted, including the filing of a petition.

Dated this 3rd day of May, 2012.

Signature of Complainant

VERIFICATION

STATE OF Nebraska)
COUNTY OF Douglas) ss.

I, Jim Sutfin, being first duly sworn under oath, state that I have read the contents of the Complaint and that to the best of my knowledge, information, and belief such contents are true and there is reasonable cause for filing said document.

[Signature]
Signature of Complainant

Subscribed and sworn before me this 3 day of May, 2012 by
Jim Sutfin
(Name of Complainant)

[Signature]
Notary Public





First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

General Counsel's Office
Nebraska Department of Education
P. O. Box 94933
Lincoln, NE 68509-4933



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *12021*

1. Article Addressed to:

*Ann Bigstad
15740 Occilla
Omaha ne 68135*

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]* Agent Addressee

B. Received by (Printed Name) *Jeff Bigstad* C. Date of Delivery *5-11-12*

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:



3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SEVERANCE AGREEMENT

THIS AGREEMENT made this 27 day of April, 2012, by and between Ann Gigstad ("Gigstad") and Douglas County School District #17, a/k/a Millard Public Schools, a political subdivision of the State of Nebraska ("School District").

WHEREAS, Gigstad is employed as a permanent certificated employee of the School District as defined in §79-824 et seq.; and

WHEREAS, the parties desire to end Gigstad's employment relationship with the School District and to compromise, settle, and release any and all claims relating to that employment relationship; and

WHEREAS, the parties wish to execute this Severance Agreement constituting a full and complete settlement of all issues and a release settling all claims regarding the ending of Gigstad's relationship with the School District.

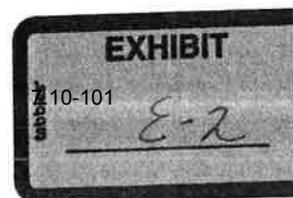
NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree as set forth below.

1. **Employment.** The School District is currently employing Gigstad as a permanent certificated employee pursuant to an employment contract for the 2011-12 school year.

2. **Resignation of Employment.** Gigstad hereby resigns her employment and relinquishes all other contractual relations with the School District effective at the conclusion of the 2011-12 school year. A copy of Gigstad's letter of resignation is attached hereto and incorporated herein by this reference as Exhibit "A." Her resignation is irrevocable and is conditioned solely upon the School District's Board of Education acceptance of it.

3. **Submission of Resignation.** The administration of the School District will submit Gigstad's resignation to the Board of Education for approval and shall recommend that the Board accept it.

4. **Payment of Salary and Benefits.** The School District will pay Gigstad her salary through the end of the contract for the 2011-12 school year. The School District shall also provide Gigstad with her fringe benefits, including health insurance through the end of the contract for the 2011-12 school year. The School District shall forward to Gigstad all necessary documents related to Gigstad's continued health insurance benefits under the Consolidated Ombudsman Budget Reduction Act (COBRA). It shall be the School District's responsibility to deliver said documents to Gigstad in a timely manner; however, it shall be solely Gigstad's responsibility to comply with the completion and submission of said documents and all payments necessary and required for the continuation of health insurance benefits after the end of the contract for the 2011-12 school year.



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5. **Letter of Employment Verification.** The School District hereby provides Gigstad with the employment verification and recommendation letter attached hereto as Exhibit "B." Said letter shall be maintained by the School District for use upon inquiry by prospective employers of Gigstad. Any written or oral statements by the School District regarding Gigstad's employment shall not be inconsistent with Exhibit "B."

6. **Confidentiality.** The School District and its administration agree to keep the terms of this Agreement and the circumstances leading to Gigstad's resignation of employment confidential to the extent allowed by Nebraska law. Gigstad agrees that she shall not disparage the School District or its representatives in any manner likely to be harmful to their business, personal or professional reputation. The School District and its representatives agree to not disparage Gigstad in any manner likely to be harmful to her business, personal, or professional reputation. Refusing to comment shall not be considered a violation of this paragraph.

7. **Release of Claims by Gigstad.** In consideration of the promises and payments specified in this Agreement, Gigstad releases the School District and its officers, board members, administrators, employees, agents, representatives, successors, and assigns from all claims, demands, and actions, past, present, and future, known or unknown, arising out of and/or related in any way, either directly or indirectly, to her employment with the School District, the termination of her employment, and/or any actions or occurrences taking place up to and including the date of execution of this Agreement, including but not limited to claims or rights under Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, the Civil Rights Act of 1866 and 1871, or any other Civil Rights Acts as amended, claims or rights under 42 U.S.C. § 1981, through and including 42 U.S.C. § 1988, the Americans with Disabilities Act, § 504 of the Rehabilitation Act, the Family Medical Leave Act of 1993, the Nebraska Act Prohibiting Unjust Discrimination Because of Age, all claims or rights relating to discrimination on the basis of age, race, color, religion, sex, disability, handicap, or national origin before the federal Equal Employment Opportunity Commission, the Nebraska Equal Opportunity Commission, and any state or federal court under any state or federal constitution, law, rule, or regulation, or claims or rights of whatever nature arising under any other state, federal, or local constitution, executive order, statute, regulation, or ordinance arising from her employment or contractual relations with the School District or her resignation of employment. She releases all contract, tort, and common law claims, and claims for attorney's fees, costs and expenses. She covenants not to institute any proceedings against the School District or any of the above-mentioned released persons in the future with respect to any of the claims, demands, causes of action, or rights hereby released.

8. **Release of Claims by School District.** Subject to the terms and conditions set forth herein, the School District hereby releases Gigstad from any and all claims or causes of action which it may have against her, known or unknown, past, present or future, arising from or related to, in any way, directly or indirectly, her employment relationship with the School District and/or to any action or occurrence taking place at any time up to and including the effective date of this Agreement. Such release and waiver of claims and causes of action include any claim for costs or attorney fees.

9. **Verification of Successive Teaching Experience.** The School District will verify Gigstad's successive teaching experience to the Nebraska Department of Education pursuant to the Department's rules.

10. **Unemployment Compensation.** The School District will treat Gigstad's resignation as a voluntary quit and will not contend that she should be disqualified for misconduct if she files for unemployment compensation benefits.

11. **Ending of Employment Relations.** Under the terms of this Agreement, Gigstad's employment and all other contractual relations with the School District shall end as of the end of the contract for the 2011-12 school year. The School District, in full and complete settlement for Gigstad's resignation of employment with the School District shall forebear and not issue to Gigstad written notice of possible cancellation of her certificated employment with the School District.

12. **Consultation with Legal Counsel.** Gigstad has been allowed the opportunity to be represented by an attorney at law to advise her regarding her rights and has reviewed and approved this Agreement. Gigstad has acted voluntarily and upon her own best judgment in executing this Agreement.

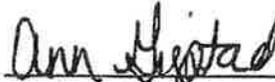
13. **No Admission of Liability.** This Agreement is not to be construed as an admission of liability on the part of either party hereto.

14. **Opportunity to Consider Agreement, Right to Revoke.** Gigstad is advised and hereby acknowledges that she will be allowed twenty-one (21) days in which to determine whether to accept the terms offered by this Agreement. Gigstad may, if Gigstad so chooses, sign this Agreement prior to the expiration of the twenty-one day period. The School District and Gigstad agree that any subsequent changes to this Agreement must be made in writing and signed by both parties, and that any such changes, whether material or immaterial, will not restart the running of the twenty-one day period. The undersigned agree that this severance and all of the terms, conditions, agreements, indemnities, releases and covenants not to sue contained herein have been fully explained to and understood by both parties. Gigstad understands that she has seven (7) days after the execution of this Agreement to withdraw from the same. Gigstad understands and agrees that it is her sole responsibility to notify the School District in writing within seven (7) days after executing this Agreement should she wish to withdraw from the same. Should Gigstad withdraw from this Agreement within seven (7) days, the Agreement shall become null and void. Otherwise, it shall become irrevocably binding upon her and shall be and remain in full force and effect.

15. **Entirety of Agreement.** This Severance Agreement contains the entire agreement between the parties hereto, and the terms hereof are contractual and not a mere recital.

16. **Authority of Assistant Superintendent.** Dr. Jim Sutfin represents and affirms that he is authorized to enter into this Agreement in his official capacity as Assistant Superintendent of Human Resources and bind the School District to its terms, including, but not necessarily limited to its release provisions.

Dated this 27 day of April, 2012.



Ann Gigstad

Dated this _____ day of _____, 2012.

**DOUGLAS COUNTY SCHOOL DISTRICT #17,
a/k/a Millard Public Schools, a Political Subdivision
of the State of Nebraska**

By _____
Dr. Jim Sutfin
Assistant Superintendent of Human Resources

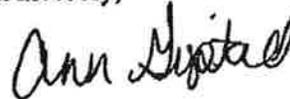
April 27, 2012

Board of Education
Millard Public Schools
5606 S 147th St
Omaha NE 68537

Dear Board Members:

I hereby resign from my employment and all other contractual relations with Millard Public Schools effective at the conclusion of the 2011-12 school year.

Sincerely,



Ann Gigstad

EXHIBIT "A"



5/1/2012

To Whom it May Concern:

Ann Gigstad began working for the Millard Public Schools in August 2002 as an alternative curriculum teacher. During her time in the District Ms. Gigstad has worked extremely hard to prepare herself for additional leadership positions. Ms. Gigstad has made many contributions to the District by being an active leader. It has been noted in her evaluations that Ms. Gigstad's teammate frequently comments on how great she is to work with. Ms. Gigstad uses her organizational and preparedness skills to fully engage her students in creative and meaningful lessons.

Sincerely,

Jim Sutfin

Jim Sutfin, Ed.D
Assistant Superintendent of Human Resources

EXHIBIT "B"

