

Cheryl Twine Fact Finding Panel Member Dissenting Opinion  
11/3/09

I, Cheryl Twine, Fact Finding Panel Member do hereby offer this dissenting opinion:

Lorin Constanzo, fact finding panel member disclosed on 8/26/09 that he is currently a hearing officer for the State of Virginia. He is certified to hear cases with the Virginia Department of Education. He stated, "I'm an administrative hearing officer for the State of Virginia. I'm certified to hear cases with the Virginia Department of Education. And with the EDR and special certifications, plus others, and this is the first time I heard about an investigation coming out about the Virginia Department of Education being involved in this, so I'm putting it on the table if there is any objection." (Transcript pg. 63) 8/26/09

James B. Thorsen, responded- "We would ask in this matter that you be allowed to recuse yourself and/or recuse yourself because of that relationship. If this case did not involve and hinge upon a VDOE report involving VDOE witnesses of significant high level in the Virginia Department of Education and/or if you were not a court certified special education hearing officer authorized to hear cases on behalf of the VDOE for due process issues and IEP's---But I think just on the appearance issue and out of fairness, I think that it is required, and do so regretfully because of the expense my client has undergone and the time that it takes to get to this point. But I see no choice. (Transcript 76) 8/26/09

Lorin Costanzo declined to recuse himself. ( Transcript 76) 8/26/09

Sandra Burks, fact finding panel member- was one of nine people to receive salary increases by Rita Bishop during the 2009 salary freeze. Mr. Thorsen stated- "Why can't I show that they got increases in the face of a salary reduction in force across the board, that they would somehow more influenced to testify favorably or act favorably on her...(Bishop). Transcript pg 61-62 (9/5/09)

I disagree with the report of panel by a 2-1 decision. It is unfortunate that the above referenced panel members failed to include any findings of fact presented by the grievant, Susan Willis and her attorney James B. Thorsen.

I have included findings of fact presented during the nine- day hearing by the grievant to include exhibits and testimony resulting in the following summary. Please review the attached document of determinations and conclusions as part of this official report as referenced on page one of the Report to Panel.

1. The Virginia Department of Education was given flawed data by Roanoke City Public Schools which resulted in an erroneous report falsely accusing Susan Willis of manipulation to increase pass rates. The Virginia Department of Education completed the report in six (6) days- relying on the data from Roanoke City Public Schools.

2. The Virginia Department of Education alleged 31 (thirty one) students had schedules changed for the purposes of increasing pass rates. Evidence shows that the IEP teams of several of the students listed non participation for SOL tests. Several students were tested and several were enrolled at the Roanoke Valley Juvenile Detention center. Many were drop outs. Many students missed more than 60-70 days of school to include the testing window. The VDOE did not independently review the data. They relied solely on the erroneous data provided by Roanoke City Public Schools. There was no manipulation by the grievant.
3. Brenda Taylor central office employee, changed (nine) 9 student schedules in May and June during the 2007-2008 school year. Brenda Taylor did not testify to the VDOE or during hearing. She is still employed with RCPS.
4. Roanoke City Public School failed to prove by a preponderance of the evidence that Susan Willis directed and/or manipulated student schedules in an attempt to increase pass rates at William Fleming High School.
5. There was no evidence presented that Susan Lawyer Willis directed or was aware of any student schedule manipulation in 2008 or 2009. Once student 430 made Ms. Willis aware on May 15, 2009, she ordered Bill Downie and Michael Hill to fix the issue. The schedules were corrected on May 15, 2009.
6. On June 1, 2009 Susan Willis was given a contract by Rita Bishop. Ms. Willis signed the contract on June 4, 2009. There was no evidence presented as to invalidate this contract.
7. 8 VAC 20-131-210 Role of principal – states that principals are held accountable in a fair and consistent manner for matters under his direct control. IEPS teams are outside of the principal’s direct control. Rita Bishop testified that all special education training and compliance is the responsibility of the special education coordinator, Linda Little and Phyllis Cundiff. Brenda Taylor, central office employee changed student schedules without knowledge of the principal. This was not in the principal’s direct control.
8. RCPS did not present evidence of ALL student schedule changes. The evidence presented was flawed. Requested evidence was denied. RCPS did not release who made the schedule changes of students.
9. The central office special education office was responsible for training staff on Virginia and Federal regulations. Linda Little who reports to Phyllis Cundiff was responsible for monitoring IEPs and compliance at William Fleming High School.
10. Susan Willis requested assistance for special education testing and special education compliance. No assistance was given.

11. Rita Bishop and Phyllis Cundiff special education director, had an adversarial relationship with Susan Willis. She stated that she, Rita Bishop and Vella Wright met on Sunday, May 24, 2009 to exchange student names in hopes to “get” Susan Willis.
12. All students received the diplomas listed in IEPs based on evidence presented by grievant.
13. Bill Downie and Michael Hill admitted to lying during their testimony during the hearing.
14. There is strong evidence of bias against the grievant, Susan Lawyer Willis by Rita Bishop and Central office staff of Roanoke City Public Schools:
  - The VDOE was asked to investigate Morningside Elementary on July 2, 2009 for SOL irregularities and the district failed to interview or investigate the allegations.
  - All parties involved in the alleged manipulation at William Fleming High School were offered settlements by the district and/or are still employed. None were dismissed.
  - Testimony by Phyllis Cundiff to the VDOE states, she, Rita Bishop and Vella Wright were out to “get” the principal, Susan Willis.
  - Willis wrote memos asking for assistance in special education- no evidence presented that any help was provided.
  - The superintendent- Bishop signed Willis’ statement without her knowledge.
  - The superintendent Bishop failed to discuss any allegations of 2007-2008 schedule changes with the principal.
  - Rita Bishop failed to evaluate the principal during Bishop’s two years as superintendent.
  - Brenda Taylor, central office employee made the schedule changes of several students mentioned in the VDOE report. Taylor is still employed.
  - The district offered Willis a contract on June 1, 2009 and now are trying to dismiss her without cause.
  - Dr. Vella Wright testified that certain important facts were left out of the internal investigation report to the VDOE.
15. The RCPS program of study mentions administrative error as a reason for schedule changes. Downie and Hill made an administrative error by changing student schedules. The grievant ordered them to correct their actions.

16. There was NO policy in place in RCPS for schedule changes other than administrative error.
17. There is no evidence presented to justify Susan Lawyer Willis' involvement and/or knowledge of any student schedule changes in 2007-2008 or 2008-2009.
18. There was no evidence presented to justify a hostile work environment at William Fleming High School while Ms. Willis was principal. Testimony produced the opposite during the hearing.
19. There was no evidence presented to justify any mismanagement or failure to produce a master schedule. Bill Downie testified that the master schedule was his responsibility. There were 1567 students scheduled by March 17, 2009.
20. There was no evidence presented of failure to be at school during the school day. Bishop's partial evaluation states no attendance issues and no punctuality concerns.
21. Rita Bishop and others were aware of special education staffing assignments at William Fleming High School by March of each school year. Documented evidence verified special education assignments on August 5, 2008. Prior to Rita Bishops partial evaluation of the grievant.
22. Roanoke City Public Schools is erroneously attempting to use schedule changes, partial enrollment, local award credit and withdrawals due to poor attendance as reasons for problems at William Fleming High School. These items are legitimate reasons for schedule adjustments.

Recommendations:

1. Based on the failure of RCPS to prove by a preponderance of the evidence Ms. Susan Lawyer Willis' involvement in any manipulation and/or testing irregularity at William Fleming High School, the district should not dismiss the grievant.
2. The grievant, Susan Lawyer Willis, should continue to be paid her signed contract and continue employment with Roanoke City Public Schools.

The attached document includes specific testimony and documentation to support the summary statements above. This opinion and attached documentation is incorporated herein and is a part of this report.

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Cheryl Twine- Fact Finding Panel Member

Date \_\_\_\_\_