STATE OF MINNESOTA

BUREAU OF MEDIATION SERVICES, GRIEVANCE ARBITRATION

ST. PAUL PUBLIC SCHOOLS, DISTRICT 625,

EMPLOYER,

and

DR. JULIE BINKO,

GRIEVANT.

ARBITRATOR'S AWARD

BMS Case No. 09-TD-6

(Teacher Discharge)

ARBITRATOR:	Rolland C. Toenges
GRIEVANT:	Dr. Julie Binko
DATE OF GRIEVANCE:	Unkown
DATE ARBITRATOR NOTIFIED OF SELECTION:	March 12, 2009
DATES OF HEARING:	September 22, 2009
	September 23, 2009
	September 24, 2009
	October 12, 2009
	October 13, 2009
	October 30, 2009
	November 3, 2009
DATE POST HEARING BRIEFS RECEIVED:	December 25, 2009[1]
DATE HEARING CLOSED:	January 25, 2010
DATE OF AWARD:	March 25, 2010

[1] It is noted that Dr. Binko's Post Hearing Brief was dated and postmarked December 4, 2009, but apparently due to postal misrouting was not delivered to the Arbitrator until December 25, 2009.

ADVOCATES

FOR THE EMPLOYER:

James R. Andreen, Attorney at Law

Erstad & Riemer, P.A.

FOR DR. JULIE BINKO

Diana Longrie, Attorney at Law

WITNESSES

Marilyn Baeker, PhD,

Coleman J. McDonough, Principal

Michelle L. Bierman, Soc. Studies Prog. Mgr.

Mary Beth Blegen, Consultant, Coaching

Suzanne Kelly, Interim Superintendent

Nancy J. Stachel, Chief of Schools

Jeff Rahman, Teacher, Soc. Studies

Jodi Goodnow, Instructional Coach

Denise R. Quinlan, Exc. Dir., Secondary Education

Dr. Julie Binko, Teacher

Robert Gunderson, Union Bus. Agt.

ALSO PRESENT

Jeffrey Lalla, General Counsel, St. Paul Schools

Nancy Cameron, Deputy General Counsel, St. Paul, Schools

Jessica Megorder, Law Clerk

ISSUE

Did the Employer have grounds to discharge Dr. Julie Binko, under the provisions of Minnesota Statutes, 122A.41, Subd. 6, for, insubordination and inefficiency in teaching?

JURISDICTION

The matter at issue, discharge of teacher Dr. Julie Binko, came on for hearing pursuant to the provisions of Minn. Stat. Section 122A.41 and the Collective Bargaining Agreement between St. Paul Public Schools and The St. Paul Federation of Teachers. Minn. Stat. Section, 122a.41, provides in relevant part:

> "(a) **Teachers.** The term "teacher" includes every person regularly employed, as a principal, or to give instruction in a classroom, or to superintend or supervise classroom instruction, or as placement teacher and visiting teacher. Persons regularly employed as counselors and school librarians shall be covered by these sections as teachers if licensed as teachers or as school librarians.
>
> Subd. 5. **Peer coaching for continuing contract teachers.** A school board and an exclusive representative of the teachers in the district must develop a peer review process for non-probationary teachers through joint agreement. The process may include having trained observers serve as peer coaches or having teachers participate in professional learning communities."
>
> Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in paragraph (b), causes for the discharge or demotion of a teacher either during or after the probationary period must be:
>
> > (1). Immoral character, conduct unbecoming a teacher, or <u>insubordination.</u>
> >
> > (3). <u>Inefficiency in teaching</u> or in the management of a school.
>
> Subd. 13. **Hearing and determination by arbitrator.** A teacher against whom charges have been filed alleging any causes for discharge or demotion specified in subdivision 6, clause (1), (2), (3), or (4), may elect a hearing before an arbitrator instead of the school board. The hearing is governed by this subdivision.
>
> > (a). The teacher must make a written request for a hearing before an arbitrator within ten days after receiving a written notice of the filing of charges required by subdivision 7. Failure to request a hearing before an arbitrator during this period is considered acquiescence to the board's action.
> >
> > (b). If the teacher and the school board are unable to mutually agree on an arbitrator, the board must request from the Bureau of Mediation Services a list of five persons to serve as an arbitrator. If

> the teacher and the school board are unable to mutually agree on an arbitrator from the list provided, the parties shall alternately strike names from the list until the name of one arbitrator remains. The person remaining after the striking procedure must be the arbitrator. If the parties are unable to agree on who shall strike the first name, the question must be decided by a flip of a coin. The teacher and the board must share equally the costs and fees of the arbitrator.
>
> ©. The arbitrator shall determine, by a preponderance of the evidence, whether the causes specified in subdivision 6, clause (1), (2), (3), or (4), exist to support the proposed discharge or demotion. A lesser penalty than discharge or demotion may be imposed by the arbitrator only to the extent that either party proposes such lesser penalty in the proceeding.[2] In making the determination, the arbitration proceeding is governed by sections 572.11 to 572.17 and by the collective bargaining agreement applicable to the teacher.
>
> (d). An arbitration hearing conducted under this subdivision is a meeting for preliminary consideration of allegations or charges within the meaning of section 13D.05, subdivision 3, paragraph (a) and must be closed unless the teacher requests it to be open.
>
> (e). The arbitrator's decision is final and binding on the parties, subject to sections 572.18 to 572. 26." [Emphasis Added]

The Collective Bargaining Agreement (CBA) between the Parties, includes a Memorandum of Understanding titled "Discipline,' which provides as follows:

> "SECTION 4. All disciplinary actions, except for oral reprimand, are subject to the grievance procedure of the Labor Agreement. <u>The discharge of a teacher covered under the Tenure Law will be governed under the procedures of M.S. 122A.41."</u> [Emphasis Added]

The Parties selected Rolland C. Toenges as the Arbitrator to hear and render a decision in the interest of resolving the disputed matter.

The arbitration hearing was conducted in accordance with applicable statutory provisions and the Collective Bargaining Agreement (CBA). The Parties were afforded full opportunity to present evidence, testimony and argument bearing on

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[2] Ii is noted that neither Party has proposed a lesser penalty. The Employer position is for the Arbitrator to sustain the discharge. The Teacher's position is for reinstatement with full back pay and benefits.

the matter in dispute. Witnesses were sworn under oath and were subject to direct examination and cross-examination.

A stenographic record was made of the hearing and copies were provided to the Arbitrator and each Party.

Post Hearing Briefs were received on December 25, 2009. The hearing was held open for 30 days pending further submissions. There being none, the hearing was closed on January 25, 2010.

The Parties stipulated that the matter was properly before the Arbitrator and no procedural challenges were made.

BACKGROUND

St. Paul Public Schools (Employer) is a large urban school district with some 38,000 students. It is the second largest school system in the state of Minnesota. The student population is diverse with students speaking more than 70 languages and dialects.[3]

As a City of the First Class, St. Paul Public Schools is subject to Minn. Stat., Section 122A.41, with respect to teacher employment, tenure, development and removal.

The Saint Paul Federation of Teachers, Local 28 (Union) represents all licensed teachers, specialists, physical and occupational therapists, nurses, librarians, counselors, school social workers, school psychologists, teacher—coordinators, administrative interns and administrative assistants, consultants, lead teachers, and team leaders employed by St. Paul Public Schools.

The Employer and Union are parties to a Collective Bargaining Agreement (CBA) that covers "Terms and Conditions of Employment.[4] The CBA, relevant to the instant matter, was in effect from July 1, 2007 through June 30, 2009. The CBA

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[3] St, Paul Public Schools Website.
[4] Joint Exhibit #1.

includes a section titled "Career in Education Program," which is required by Minn. Stat, Section 122A.41:

> " Subd. 5. **Peer coaching for continuing contract teachers.** A school board and an exclusive representative of the teachers in the district must develop a peer review process for non-probationary teachers through joint agreement. The process may include having trained observers serve as peer coaches or having teachers participate in professional learning communities."

The Career in Education Program (CEP) Agreement provides for a board made up of 17 members. Nine are selected by the Union including teachers representing various grade levels, special education and ELL. The Employer selects eight members representing various departments and includes Superintendence, Principals, ELL, Special Education and Human Resources. The Board is co-chaired by one Union member and one Employer member.

The CEP lists the following beliefs, which will support the professional growth of teachers.

- Quality professional development and assessment, aligned with state, district and school goals, enhance teacher effectiveness, build confidence, and increase student achievement.
- Collegial collaboration and ongoing support from peers and administrators are vital to teacher effectiveness and morale.
- Adequate time and resources are necessary for effective professional assessment and development.
- A system that supports excellence in teaching will strengthen the district's capacity to attract develop, and retain high quality professions in the Saint Paul Public Schools.

The CEP provides that it will develop, review and revise CEP polices and documents. The four areas of responsibility are listed as follows:

- Standards of Effective Teaching[5]

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[5] "The Standards of Effective Teaching" are part of the Career in Education Program Booklet available on the Center for Professional Development website. http://www.thecenter.spps.org/Career_in_Education.html

- Professional Development and Assessment System for Teachers
- Teacher Induction Program
- Teacher Assistance Program

The CEP provides detail on how each of the "areas of responsibility" is to be implemented and conducted. "Section 5. Teacher Assistance Program," addresses "Below Standard" performance and sanctions for teachers who fail to meet or exceed standards. "Section 6. Career in Education Compensated Positions," describes "Mentors" and "Site Staff Development Coordinators," who provide peer coaching support and training.

The CBA includes a section titled "Lesson Plans Procedures."

> "The development and use of lesson plans in Saint Paul Schools shall be guided by these assumptions and principles. Basic Assumptions:
>
> - The School District expects and requires that lesson planning be done on a regular and timely basis by all teachers who engage in the instruction of students,
>
> AND
>
> - The Saint Paul Federation of Teachers confirms and supports the requirement of lesson planning for all teachers who engage in the instruction of students.
> - Each teacher's lesson plans need to be available:
>
> 1. To provide effective guidance and planning for the teacher and for a substitute teacher.
> 2. For review by the Principal as needed.

The CBA includes a section titled "Time and Teacher Workload."

> "The Saint Paul Federation of Teachers and District agree that school reforms have changed the working conditions in our schools. In the past, students were solely responsible for academic achievement. Teachers worked primarily in isolation from one another. School administrators made management decisions. Today, schools share responsibility for student achievement. Teachers regularly team with their colleagues and serve on numerous school governance and management committees. These changes have increased teacher workload and time spent working with colleagues."

The CBA contains ARTICLE 4, BOARD OF EDUCATION RIGHTS:

> "The Board is not required to meet and negotiate on matters of inherent managerial policy which include, but are not limited to, such areas of discretion or policy as the functions and programs of the employers, its overall budget, utilization of technology, the organizational structure and selection and direction and number of personnel as outlined in PELRA, Minn. Stat., Section 179A.07, Subdivision 1 and 2."

The CBA contains ARTICLE 5, TEACHER RIGHTS:

> "Nothing contained in this Agreement shall be construed to limit, impair or affect the right of any teacher to the expression or communication of a view, complaint or opinion on any matter related to terms and conditions of employment or their betterment so long as the same is not designed to and does not interfere with or circumvent the full performance of the duties of employment or the rights of the Federation."

Teaching standards used to evaluate all teachers, referred to as "Standards of Effective Teaching," were first developed in early 2002, and were revised in October 2007, with Union involvement.

Dr. Julie Binko (Binko) was employed as a teacher at Hazel Park Academy in the St. Paul Public Schools System. Binko taught seventh and eighth grade Social Studies. Binko has a BA in Geography, a Masters in Curriculum and Instruction, and a Doctorate in Education Policy.

In early 2007, Binko's teaching methods and behavior come under scrutiny by her Principal. The Principal alleged that her teaching methods were not in conformity with "The Standards of Effective Teaching" that had been adopted by School Administration and the teacher's Union. The Principal also alleged that Binko demonstrated insubordinate behavior in the way she acted toward others and based on her lack of cooperation in adopting the new teaching standards.

In mid 2008, Binko was issued notice that she was being recommended for discharge and would be on administrative leave beginning the start of the 2008-2009 school year. In late 2008, Binko was notified of her proposed discharge for inefficiency in teaching and insubordination.

Binko appealed her proposed discharge under the provisions of Minn. Stat., Section 122A.41. Accordingly, the matter comes before the instant arbitration proceeding for resolution.

EXHIBITS

JOINT EXHIBITS:

J-1. Collective Bargaining Agreement, July1, 2007 through June 30, 2009.

EMPLOYER EXHIBITS:

E-1. Personal Notes by Baeker, RE: Issues with Binko's teaching, 7/08/07.

E-2. Teacher Assistance Program for Tenured Teachers.[6]

E-3. Memo from Coleman to Binko, RE: Teaching Observation, 10/05/07.

E-4. Personal notes by Baeker. RE: Performance issues with Binko, 10/08/07.

E-5. Personal notes by Baeker, RE: Performance Observations with Binko, 10/12/07.

E-6. Personal notes by Baeker, RE: Performance Observations with Binko, `10/11/07.

E-7. E-mail, Binko to McDonough, RE: Post Observation, 10/11/07.

E-8. Performance Evaluation of Binko by Baeker & McDonough, 10/17/07.

E-9. Lesson Plans/Student Work Assignments by Binko.

E-10. Binko's Job performance expectations, 10/17/07.

E-11. Critique of Binko's lesson plans by Baeker.

E-12. E-mail, McDonough to Binko, RE: Meeting Regarding Performance, 10/26/07.

E-13. Binko response to observations on her performance, 10/11, `12 & 17/07.

E-14. Written Reprimand from McDonough to Binko, 11/12/07.

E-15. Memo, McDonough to Binko, RE: Feedback on 11/01/07 meeting.

E-16. E-mail, McDonough to Binko, RE: Instructional Support, 11/13/07.

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[6] This Exhibit is an excerpt of page 75 of the CBA.

E-17. Performance Observation Report on Binko, & Notes by Baeker, 12/13/07.

E-18. Formal Improvement Plan for Binko by Baker and McDonough, 12/17/07.

E-19. E-mails between McDonough and Binko, RE: Student Survey, 12/18/07 – 01/16/08.

E-20. Student Survey Results and Analysis.

E-21. E-mails, Binko Lesson Plans not up to standards, 2/15-16/08.

E-22. E-mails, Lesson Plan Feedback to Binko, 01/30/08 – 03/12/08.

E-23. E-mail, McDonough to Binko, RE: Feedback on Lesson Plans, 03/12/08.

E-24. Performance Evaluation and observation notes of Binko, by Baeker, 05/08/08.

E-25. Memo, McDonough to Binko, RE: Final Performance Improvement Plan Review, 04/17/07.[7]

E-26. E-mails, Binko to McDonough, RE: Post Observation Conference, 04/23-24/08 & 05/04/08.

E-27. Binko response to McDonough request for teacher input, 02/27/07.

E-28. E-mail, McDonough, RE: Professional Expectations from staff, 02/27/07.

E-29. Witness accounts of incident involving Binko yelling at another staff member, 02/14/07.

E-30. Witness account of incident involving confrontation between Binko and another staff member, 03/08/07.

E-31. Witness account of incident involving confrontation between Binko and another staff member, 03/08/07.

E-32. E-mail, McDonough to Binko, RE: Incident of inappropriate conduct, 03/13/07.

E-33. Memo, McDonough to Binko, RE: Investigation of inappropriate conduct, 03/20/07.

E-34. Memo, Binko To McDonough, RE: Incident on March 21 and statements from witnesses.

E-35. Notes by McDonough, 13/26/07, RE: Meeting with Binko about incident with Mr. Howard.

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[7] It is noted that the date on this document should obviously be 2008 rather than 2007.

E-36. Anonymous critique of appointment of Principal at Hazel Park school, undated.

E-37. Notes of Gunderson, RE: Interview with Binko about Incident with Mr. Howard, 03/26/07.

E-38. Memo, McDonough to Binko, RE: Professional expectations and requirements, 08/28/07.

E-39. Memo, McDonough to Binko, RE: Formal Teaching Observation Scheduled, 10/05/07.

E-40. Personal notes of McDonough, RE: Concerns and questions about Binko's performance and attitude, undated.

E-41. Report, number of comparative teacher referrals out of classroom for student misbehavior, 12/14/06.

E-42. Blank.

E-43. Notes by McDonough, RE: Observations in Binko's classroom, 10/11/07.

E-44. Evaluation of Binko's teaching based on Elements of Effective Instruction criteria, 10/17/07.

E-45. Performance Expectations for Binko, 10/17/07.

E-46. Personal notes of McDonough, RE: meeting with Binko about performance issues, 10/17/07.

E-47. E-mails between McDonough and Binko, RE: Lesson plan critique and communication issues, 10/23 through 11/8/07.

E-48. E-mail, McDonough to Binko, RE: Meeting scheduled, 10/26/07.

E-49. McDonough's personal notes, RE: Meeting with Binko, 11/01/07.

E-50. Letter of Directive, McDonough to Binko, RE: Issues with Binko's lack of adherence to protocols, 11/07/07.

E-51. Written Reprimand, McDonough to Binko, RE: Unacceptable conduct, 11/12/07.

E-52. Memo, McDonough to Binko, RE: Professional expectations and requirements, insubordination, 11/12/07.

E-53. Memo, McDonough to Binko, RE: Summary of feedback from 11/01/07 meeting on submitted lesson plans, 11/13/07.

E-54. E-mail, McDonough to Binko, RE: Confirmation of discussion about arranging instructional support for Binko, 11/13/07.

E-55. Report of number of students transferred out of Binko's class via student request, undated.

E-56. Personal notes of McDonough, RE: Observation of Binko's classroom conduct, 12/13/07.

E-57. Performance expectations (Elements of Effective Instruction) for Binko. 12/17/07.

E-58. Lesson plans prepared by Binko, 12/10-18/07.

E-59. Personal notes of McDonough, RE: Agenda for meeting with Binko, 12/17/07.

E-60. Improvement Plan for Binko, 12/17/07.

E-61. Memo, McDonough to Binko, RE: Investigation of Binko withholding student participation in school activity, 12/21/07

E-62. McDonough's outline of agenda for investigative meeting with Binko, undated.

E-63. Handwritten notes, RE: student incident in Binko's classroom –name calling and book throwing, undated.

E-64. Personal notes of McDonough, RE: interview with Binko about classroom incidents involving name-calling, book throwing plus "Tennessen Warning", 01/28/08.

E-65. Personal notes of McDonough and documents, RE: Investigation of Binko denying student participation, undated.

E-66. E-mails, Binko and Chang, RE: issues with student behavior, 01/07-09/08.

E-67. Suspension of Binko's student and background documents, 03/26/08.

E-68. E-mails and documentation, RE: Student behavioral incidents and proper basis for referral out of classroom, 01/23-24/08.

E-69. E-mails, Binko, Stevens, and Fox RE: Binko's critique of Computer performance, 12/06/07 – 01/15/08.

E-70. E-mails, Binko, Simmons, Rahmam, Stevens and McDonough, et al, RE: Binko adding agenda item to "iron out" building judging, 01/16-23/08.

E-71. Memo, McDonough to Quinlan, RE: Disciplinary Recommendation and Supporting rationale – Binko, 02/05/08.

E-72. Survey of students in three different teacher classrooms, including Binko's, and McDonough's notes of issues to be discussed with Binko, undated.

E-73. E-mails, McDonough, Blegen, Baeker, Cardwell, RE: Summary and critique of McDonough's meeting with Binko, 02/15-16/08.

E-74. Memo, McDonough to Binko, RE: Progress Review of Performance Issues, 02/29/08.

E-75. Memo, McDonough to Binko, RE: Final Performance and Improvement Review, 04/17/08.

E-76. Performance Review (Elements of Effective Instruction) of Binko and background information, 05/09/08.

E-77. Personal notes of McDonough, RE: Discussion with Binko about performance issues and summary of events leading up to McDonough' s decision to recommend she be placed on administrative leave, undated.

E-78. Memo, McDonough to Quinlan, RE: Recommendation for Discharge of a Tenured Teacher (Binko), 06/12/08.

E-79. Excerpt from CBA, "Memorandum of Agreement Regarding Career in Education Program, page 75.[8]

E-80. Memo, McDonough to Binko, RE: Notice of investigation into inappropriate conduct – Union representation permissible, 03/13/07.

E-81. Memo, McDonough to Binko, RE: Professional Expectations and requirements, 08/28/07.

E-82. Memo, McDonough to Binko, RE: Letter of Written Directive, 11/07/07.

E-83. Memo, McDonough to Binko, RE: Written Reprimand, 11/12/07.

E-84. Memo, McDonough to Binko, RE: Professional Expectations and Requirements, 11/12/2007.

E-85. Memo, McDonough to Binko, RE: Summary of feedback from November 1 meeting and from submitted lesson plans, 11/13/07.

E-86. Memo, McDonough to Binko, RE: Investigation of the withholding of a student's participation in an in-school activity, 12/21/07.

E-87. E-mails, Binko, Johnson, McDonough, RE: Cafeteria Experience and McDonough's recommendation for a two-day suspension of Binko. 12/18/07.

E-88. Letter, Quinlan to Binko, RE: Recommendation for a two-day suspension with supporting justification, 02/19/08.

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[8] The Exhibit shows this page as 77; however, in the current CBA it is page 75.

E-89. Personal notes of McDonough, RE: Investigatory interview with Binko, 02/22/08.

E-90. Letter, Quinlan to Binko, RE: Binko suspended for two days with supporting justification, 03/28/08.

E-91. E-mails, Blegen, McDonough, Baeker, Cardwell, RE: Summary of McDonough's meeting with Binko about behavior issues, 01/15-16/08.

E-92. Memo, McDonough to Binko, RE: Progress Review, 01/19/08.

E-93. E-mail, McDonough to Binko, RE: Feedback on lesson plans, 03/12/08.

E-94. Personal notes by Quinlan, RE: Observations of Binko's teaching performance, 03/13/08.

E-95. Performance Evaluation (Elements of Effective Instruction) of Binko by Quinlan, 03/31/08.

E-96. Memo, McDonough to Quinlan, RE: Recommendation for discharge of a tenured teacher, 06/12/08.

E-97. Letter, Quinlan to Binko, RE: Recommendation for discharge. 06/19/08.

E-98. Memo, Quinlan to Stachel, RE: Recommendation for discharge/demotion of tenured teacher, 06/23/08.

E-99. E-mail, McDonough, Bierman, Baeker, RE: Social Studies Coaching Op, Binko, 11/12/07.

E-100. E-mails, Bierman and McDonough, RE: Social Studies Coaching for Binko, 11/12/07.

E-101. E-mail, Bierman and Binko, RE: Coaching assistance for Binko, 11/13-14/07.

E-102. E-mail, Binko, Bierman, McDonough, RE: Binko to meet with coach on 11/19/07.

E-103. E-mail, Binko, Bierman, McDonough, RE: Binko report to McDonough on plan for coaching with Bierman on 11/27/07 and 12/04/07.

E-104. E-mail, Bierman to Binko, RE: Bierman's supervisor advised her not to work with Binko in this situation, 11/20/07.

E-105. E-mail, Bierman to McDonough, RE: Confusion with Binko expectation and Bierman's supervisor has decided best not to get involved, 11/20/07.

E-106. E-mail, Goodnow to McDonough, RE: Report on Coaching activity with Binko, 04/23/08.

E-107. Personal notes by Blegan, RE: Observations of Binko's instruction, 01/08/08.

E-108. E-mail, Rahman to Binko, et al, RE: Inference Qs, 01/28/08.

E-109. E-mails, Binko to Rahman, RE: Use of Lab 118 and question about grade for student transferred, 1/03/08.

E-110. Letter, Stachel to Binko, RE: Recommendation for discharge, 06/30/08.

E-111. Personal notes by Stachel, RE: Meeting with Binko hearing her response to charges, 08/14/08.

E-112. E-mail, Binko to Stachel, RE: Witten statement taking issue with Quinlan's review of her performance, 08/14/2008.

E-113. Memo, Stachel to Kelly, RE: Recommendation for discharge of Binko, 09/25/08.

E-114. Letter and packet from Kelly to Binko, RE: Offering opportunity for Binko to respond to charges and set meeting for 10/2/08. (Packet includes explanation of basis for charges and supporting documentation)

E-115. Memo, Kelly to Superintendent Carstarphen, Re: Recommendation for discharge of Binko, 10/7/08.

E-116. E-mail, Binko to Superintendent Carstarphen, et. al, RE: Response to Proposed Charges – 10/2/08 meeting,

E-117. Letter, Binko to Superintendent Carstarphen, RE: Response to charges, 10/02/08.

E-118. Letter, Superintendent Carstarphen to Binko, RE: Upholding recommendation for discharge and suspension without pay effective 10/07/08.

E-119. Memo, Quinlan to Stachel, RE: Recommendation for discharge/demotion of tenured staff with charges and supporting documentation, 06/23/08.

E-120. Information brochure on Hazel Park Academy.

E-121. Memo, Binko to Meza, RE: Submission Binko's personnel file in response to Baeker and McDonough's critique of her instruction performance, 12/12/07.

E-122. Memo, Binko to Superintendent Carstarphen, RE: Challenge to use and dissemination of data for failure to issue "Tennessen Warning," 10/02/08.

TEACHER EXHIBITS:

T-1. Documents from Binko's personnel file.[9]

T-2. Binko statement expressing her view of circumstances at Hazel Park and teacher observation report by Chou Chang, 10/05/06.

T=3. Resume' of Julie Binko, undated.

T-4. Determination that Binko is eligible for unemployment benefits, 03/30/09.[10]

T-5. Documents showing salary and benefits that accrued to Binko, when employed at St. Paul Public Schools.

T-6. Record of Binko's continuing education credits from 2004 – 2008.

T-7. Binko's professional development activity during 2007-2008.

T-8. Record of Literacy Team activity in which Binko participated.

T-9. Binko statement and documents regarding Quinlan's observations.

T-10. Student progress reports and graphs, 2006 – 2008.

T-11. Student grade scoring rubric and student worksheets.

T-12. Student Handbook setting forth rights, obligations and consequences.

T-13. School Policy on Harassment and Violence.

T-14. McDonough summation of issues with Binko and Binko's response.

T-15. Binko's opinion regarding age discrimination and report from Union on the number and age of teachers in the improvement plan.

T-16. Binko's opinion regarding FMLA and Disability violations and E-mails concerning her absence and return to work.

T-17. Binko's opinion regarding reprisals and E-mails between Binko and Union.

T-18. Binko's opinion regarding the hiring and treatment of her partner by McDonough.

T-19. Documentation regarding an incident with teacher Howard and various E-mails regarding issues of concern.

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[9] These documents are also included in the Employer's Exhibits.
[10] The Employer raised an objection based on relevance.

T-20. Binko communication with Union, RE: Concerns not being addressed, 12/05/07.

T-21. District Curriculum Lesson Plans, World Geography 101.

T-22. Binko's log of meetings with parents, 09/07 through 03/08.

T-23. Syllabus for eighth grade geography students.

T-24. Syllabus for "Challenge US History" studies.

T-25. E-mails, between Binko and McDonough, RE: Lesson plans, classroom observations and directions.

T-26. Memos, McDonough to Binko, RE: Feedback on meetings and lesson plans and progress review, 02/29/07 and 11/13/07.

T-27. Daily Lesson Plans, Geography, 10/24/07 – 03/14/08.

T-28. Daily Lesson Plans, US History, 10/22/07 – 03/14/08.

T-29. E-mail, Binko to McDonough and lesson plans, 11/10/2007.

T-30 Lesson Plans from teacher Rahman.

T-31. E-mails between Goodnow, Binko and McDonough, RE: coaching, lesson adaptations, conditions for return from medical leave, various dates.

T-32. DVD Video of Hazel Park Academy.

T-33. Leadership Profile Report, Executive Summarey, 09/22/09.

POSITIONS OF THE PARTIES

THE EMPLOYER SUPPORTS ITS POSITION WITH THE FOLLOWING:

- In order to properly educate its students, St. Paul Public Schools (SPPS) and the Teacher's Union have adopted a "Career In Education Program," which is part of the Collective Bargaining Agreement. This Program includes "Standards of Effective Teaching." and a "Teacher Assistance Program."

- The Standards of Effective Teaching serve as the foundation for all aspects of the Career In Education Program, including professional development plans and the observation and evaluation of teachers.

- A teacher's performance must Meet or Exceed Standards. The Teacher Assistance Program provides assistance to teachers below standard. Mentors provide coaching support and Site Staff Coordinators train staff, coach the professional development teams and review improvements.

- A Teacher who does not or will not improve under the Teacher Assistance Program may be terminated pursuant to Minn. Stat. Section 122A.41, Subd. 6(3) for "inefficiency in teaching."
- Julie Binko should be terminated pursuant to that section because she did not effectively teach nor did she show any improvement when placed on the Teacher Assistance Program, nor show any inclination to improve.
- Five witnesses testified to Binko's poor teaching. These witnesses conducted over 15 observations and her Principal testified to numerous occasional observations.
- The Witnesses consisted of Dr. Marilyn Baeker, a collaborator and originator of the Standards of Effective Teaching, Coleman McDonough, Binko's Principal, Denise Quinlan, Executive Director of Middle Schools, Jodie Goodnow, the Hazel Park Academy Coach and Mary Beth Blegen, a consultant for SPPS and district coach.
- From numerous observations on different days, the observers all came to the same conclusion, that Binko was not an effective teacher. She did not use effective instructional practices, made limited use of informal assessments and failed to provide students with an authentic learning experience.
- Binko's classroom environment was negative; her students were often off task or bored and often assigned busy work.
- Binko did not show interest in improving. She was rude and sarcastic to those trying to assist her. Rather than being open to change, she attempted to solicit evaluations that would cast her in a more favorable light.
- Binko's refusal to improve her teaching methods and adopt the Standards of Effective Teaching amounts to insubordination.
- Binko misrepresented her interactions with the witnesses who, in contrast, testified consistently.
- Binko's Union representative provided the most telling testimony, when he testified that she was rude and recalcitrant towards those who were attempting to help her improve.
- Binko's Union representative testified that the process used was fair and in compliance with the Collective Bargaining Agreement. Further, the Union representative testified that he followed the process himself to insure that her rights were respected.
- Binko's Union representative testified that where a "Tennessen Warning" was required, it was given.

- SPPS has carried its burden to show that Binko should be discharged under the Teacher Tenure Act, Minn. Stat., Section 122.41.
- Binko neither improved nor showed any inclination to improve. SPPS efforts to help her improve were met with rudeness and contempt. Her removal will allow SPPS to move forward in its mission to provide effective education to its students.
- Accordingly, SPPS requests the Arbitrator uphold the proposed termination of Julie Binko on the grounds of "inefficiency in teaching" and "insubordination."[11]

THE TEACHER'S CASE IS SUPPORTED WITH THE FOLLOWING:

- The Employer's case in support of Binko's discharge is a regurgitation of hearsay and administrative rhetoric.
- It is evident that Binko's termination centers around SPPS's desired enforcement of a prescriptive teaching style and restrictive communication mandates.
- What is being tested in this case is whether SPPS can force tenured teachers to use a mandated teaching style, by co-mingling improvement with discipline, irrespective of student academic testing outcomes, or a teacher's professional discretion.
- The fusion of the discipline process and teacher assistance program was used hand-in-hand, through the use of an improvement plan, to reinforce the threat of termination if Binko did not convert to the mandated teaching style.
- This, being the first arbitration relating to the use of SPPS improvement plans to terminate a tenured teacher in the district, is not in conformance with her contract nor with state law.
- SPPS has failed to meet their burden of proof to terminate Binko, failed to provide required "Tennessen Warnings", is in breach of her contract, including discipline and has failed to follow the Improvement Plan in the Memoradum of Agreement.
- SPPS has not met its burden of proof by a preponderance of evidence and Binko should be reinstated with back pay, benefits, tenure step, reimbursement of her COBRA payments etc. and attorney fees in defending her position.

DISCUSSION

It is common knowledge that concern for improvement in education achievement exists at the state and national level, as well as in local school districts. This is of particular concern in large inner-city school systems such as St. Paul Public Schools.

This concern is exemplified by the fact that the Minnesota Legislature enacted Minn. Stat. Section 122A.41, Subd. 5. **Peer coaching for continuing contract teachers.** This statute provides that the school district and exclusive representative of teachers must develop a peer review process for non-probationary teachers through joint agreement. "The process may include having trained observers serve as peer coaches or having teachers participate in professional learning communities."

It is in accordance with the above referenced statute that SPPS and the teacher's Union have negotiated such a process into their Collective Bargaining Agreement. This part of their Agreement, titled "Career in Education Program," provides for "Standards of Effective Teaching, Professional Development and Assessment System for teachers, Teacher Induction Program and a Teacher Assistance Program."

The primary area of the Career In Education Program, relevant to the instant matter, is "Standards of Effective Teaching," Professional Development and Assessment System for Teachers" and "Teacher Assistance Program. The record shows that as of November 3, 2008 some 32 teachers have sought representation from the Union with regard to being placed on the "Teacher Assistance Program." As of November 3, 2008, several teachers had improved sufficiently to be in compliance with the "Standard." Julie Binko is the first teacher to be terminated for failure to make acceptable improvement.[12]

Binko's request for the above information was related to her concern that the program was disproportionately affecting older teachers. However, the age distribution among the 32 teachers would not appear to support such a finding.

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[12] Teacher Exhibit #15.

It should be noted that the record in the instant case is very voluminous and comprehensive. The transcript of the seven-day hearing consists of over 1,500 pages. Some 156 exhibits were entered into evidence. The exhibits plus post hearing briefs and related documents consist of at least another 1,500 pages. Therefore, in this discussion, it is necessary to summarize much of the evidence.

The charges against Binko, "inefficiency in teaching" and "insubordination," appear in the statute as Subd. 6(a)(1) and (a) (3). The standard of proof in the instant case is "a preponderance of evidence." [13]

Binko's teaching assignment was in the Social Studies Department at Hazel Park Academy, where she taught seventh and eighth grade Social Studies. The first concerns about Binko's teaching efficiency and conduct appear in the record as early 2007. This is when a new Principal, Coleman McDonough, became Binko's supervisor at Hazel Park Academy. McDonough was new at Hazel Park. McDonough had previously worked Humbolt school.

In February 2007, McDonough distributed a "get to know you request" to all teachers. The request was for teachers to share several things about themselves, which could become a basis for McDonough and the teachers to get acquainted. Binko's responded as follows:

- "Selected administration and faculty have made it their job responsibility to make my life at Hazel Park a living hell.
- If I could retire today, I would – and move to Montana.
- I own over 400 books. Would you care to help move them to Montana?"

In subsequent meetings, Binko made it clear to McDonough that she was unhappy and referred to Hazel Park as a "rats nest."

On March 15, 2007, Binko initiated a verbal altercation with another teacher over a scheduling matter, with which she was in disagreement. The altercation was witnessed and documented by several other staff members. As a result of the

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[13] Minn. Stat, Section 122A.41, Subd. 13©,

altercation, the other teacher resigned his position as department chair. During an investigative meeting into the altercation, Binko stated: "I don't want to be here, put me in another building – get me outta here."

On March 31, 2007, Binko went on medical leave. Binko was scheduled to return on April 15, 2007, but did not return for the remainder of the school year. On July 2, 2007, Binko e-mailed McDonough stating: "I assume I will be back at Hazel Park, much to my chagrin."

By September 18, 2007, Binko was demonstrating significant issues pertaining to building relationships with students; to the point that requests were made for the AP to meet with her to resolve these issues. Binko ignored the requests and insisted on Union representation, even though she had been informed that, unless the meeting was about disciplinary action, Union representation was not appropriate.

Through his customary observations of classroom activity, McDonough observed that Binko's teaching methods were not in compliance with the "Standards of Effective Teaching, established by SPPS and the teacher's Union.

In a meeting with Binko on October 16, 2007, substantial concerns about her instructional practices and professional behavior were outlined and she was informed that an official improvement plan would be implemented. In follow-up correspondence, Binko stated:

> "I did not realize I was responsible for student learning. I am responsible to facilitate learning with the curriculum. The Principles of Learning clearly state that Organizing for Effort includes students being responsible for their own work."

On November 2, 2007, two members of the Social Studies Department, who expressed a high level of frustration regarding Binko's consistently confrontational behavior and unwillingness to perform as a team member, brought up the matter with McDonough.

On November 11, 2007, McDonough called a meeting with Binko where he informed her of coaching support he had arranged. McDonough also gave Binko a written

directive regarding her rude, offensive and unprofessional behavior, unbecoming a teacher. Binko brought a tape recorder and attempted to surreptitiously record the meeting. Despite McDonough's verbal directive that she was not to record the conversation, Binko insisted: "I'm going to record"

On November 26, 2007, McDonough was informed by the Center for Academic Excellence that the coaching support he had requested for Binko was not going to be provided. The reason given was that Binko was attempting to create an "us versus them" atmosphere with the coach. The coach was very uncomfortable with Binko's unprofessional approach to the SPPS coaching model and did not want to be involved.

Although the Center for Academic Excellence did not want to get involved with Binko, McDonough proceeded with an alternative. On October 11 and 12, 2007, Marilyn Baeker, PhD, with the Center for Professional Development and McDonough observed Binko's classroom instruction. From their observations, Baeker and McDonough determined that Binko should be on an improvement plan. They created an improvement plan that required Binko to provide lesson plans, to follow all elements of instruction and she was to attend workshops and the "Foundation's" course. Binko was instructed to greet students daily in a friendly manner, build positive relationships with students, create a welcoming environment in her classroom and instill high and authentic expectations for learning.

Baeker and McDonough held a post-observation meeting with Binko, but found that she was hostile, combative, sarcastic and defensive. Binko basically dismissed everything as if it was not true. When Baeker and McDonough were meeting with Binko, she was rolling her eyes and shuffling her papers. Binko was instructed to act in a more respectful manner and follow the improvement plan to improve her teaching methods.

On December 13, 2007, Baeker and McDonough again observed Binko's classroom instruction, but found no improvement. Baeker and McDonough expected to see direct instruction, modeling to students and mini lessons. Baeker and McDonough

met with Binko to review their findings and Binko stated: "I haven't made any significant changes."

Denise Quinlan, Executive Director of Middle Schools observed Binko's classroom instruction at two different times in March 2008. Quinlan found the instruction below standard. The classroom was unruly. She did not see any instruction, modeling or any evidence of higher learning.

In May of 2008, Baeker and McDonough separately evaluated Binko, with neither finding any serious improvement. Baeker and McDonough decided to conduct a survey of students, including students from other classrooms. The survey showed a significant dislike for Binko and a lack of desire to be in her class. In contrast students from other classrooms liked the teacher and thought they were learning.

The results of the student survey were reviewed with Binko to help her understand difficulties she was having engaging her students. However, Binko dismissed this as just another attempt to get rid of her.

Baeker and McDonough then secured the assistance of two coaches to assist Binko. Mary Beth Blegen and Jodi Goodnow were assigned to coach Binko. Mary Beth Blegen is a highly experienced coaching consultant, who holds the title of "National Teacher of the Year." Jodi Goodnow is a full time instructional coach at Hazel Park Academy. Goodnow has 21 years teaching experience and has an advanced teaching degree.

Goodnow found Binko was not receptive to her coaching efforts and did not acknowledge any need to change her teaching style. Goodnow observed six of Binko's classes and saw no direct instruction. Goodnow has had success coaching other teachers, but not with Binko. Goodnow concluded Binko was not looking for suggestions.

Blegen does coaching for several schools, including SPPS. Blegen agreed to coach Binko at the request of Baeker. What Blegen observed in Binko's classroom was that the students were not doing any actual learning. There was a disconnect

between the packet Binko had prepared and the activity in which the students were engaged. Blegen did not find Binko's instruction method effective. Binko was not receptive to Blegen's suggestions. Binko would attempt to justify the way she was teaching, whenever a suggestion was offered.

Michelle Bierman, works at the Center for Professional Development. Bierman's position is to support secondary seventh through twelve Social Studies. Bierman was asked by McDonough to see if she could coach Binko in improving her teaching effectiveness. Bierman met with Binko. Binko wanted Bierman to support her [Binko's] good teaching skills and told Bierman that administration was out to get her. Bierman notified McDonough that what Binko wanted was outside her coaching role.

Jeff Rahman is a Social Studies Teacher at Hazel Park Academy and has been there eight years. Rahman was involved in a collaborative project with Binko and other teachers to establish common goals for improvement of student achievement. Rahman found Binko uncooperative and difficult due to her combative behavior. Binko berated Rahman and yelled at him in front of his class. Binko tried to derail progress and was discourteous. Binko did not administer the program survey questions to her class that were supposed to be administered to all students.

McDonough became aware of 10 documented negative interactions Binko had with separate staff members, ranging from verbal attacks, unprofessional e-mails, to rude and disrespectful behavior. There was no evidence that Binko acknowledged her behavior or had offered an apology. Binko's strategy was to deflect and or attempt to redirect the focus to others. McDonough found that Binko's behavior created a hostile work environment for students and colleagues.

In a meeting with Binko, McDonough outlined his concern of her inability to develop a relationship with students, and her misrepresentation of information pertaining to student discipline. McDonough found Binko had misrepresented facts in an incident involving an altercation between two students. An investigation revealed that Binko

had referred the wrong student for throwing a book and that the book was not thrown at the student's head as Binko had stated.

McDonough discussed his concern with Binko regarding run-ins with multiple students and her hostile and rude demeanor in the classroom. McDonough counseled Binko that she has repeatedly demonstrated that her classroom environment is not conducive to learning.

McDonough also had concerns about the number of students and parents of students that requested to be transferred out of Binko's classroom. Over the course of eight months, a combination of 16 students/parents requested that they be removed from Binko's classroom. The reasons varied from, "we don't learn anything" to "she's mean to us."

A student survey was conducted as a part of Binko's improvement plan. The responses indicated that students were not pleased with Binko's performance and were overwhelmingly negative. Over half of the students indicated that they were not engaged learning and didn't receive help when they didn't understand something. The comment section made it clear that Binko's teaching style was not conducive to learning and relationships were primarily negative.

McDonough concluded that Binko's performance was exceedingly below standard in all respects and noted the following:

- Efforts begin on August 28, 2007, which required Binko to communicate and interact with students, parents and staff members in a respectful, cooperative and professional manner, and to refrain from rude or offensive behavior were unsuccessful.
- The written reprimand issued on November 12, 2007 regarding the aforementioned behaviors was unsuccessful in correcting these behaviors.
- On March 28, 2008, a two-day suspension was imposed for Binko's behavior toward students and staff.
- Another investigation is pending where Binko is alleged to have continued these behaviors.

- Binko's response, regarding any and all questioning of her performance/behavior, is consistently dismissive defiance, consistent attempts to redirect the attention or simply place blame on others.
- At no time has Binko acknowledged her behavior, role or responsibility in any of the numerous situations at issue.

In June 2008, McDonough recommended that Binko be discharged.

McDonough's recommendation was forwarded Denise Quinlan, Executive Director of Secondary Education, who supported the recommendation. Quinlan then forwarded the recommendation to Nancy Stachel, Chief of Schools.

Stachel met with Binko on August 14, 2008 to hear her position and gave her an opportunity to resign. Also present at the meeting was Union Representative, Gunderson and Binko's personal attorney, Dianna Longrie. Binko did not resign and was placed on administrative leave at the beginning of the 2008-2009 school year. Stachel then forwarded her recommendation that Binko be discharged, for inefficiency in teaching and insubordination, to Suzann Kelly, Chief of Staff.

Robert Gunderson is the Representative of the St. Paul Federation of Teachers, Local 28. Gunderson has a BA degree and is a former teacher with 22 years experience. Gunderson has represented Binko since 2007. Gunderson represents some 3,600 employees, but did not know Binko prior to 2007

Gunderson confirmed that Union representation is not required unless there is an investigation of discipline involved. Gunderson was notified and was present when the written reprimand was issue to Binko.

Gunderson stated that a "Tennessen Warning" is not required during meetings about improvement plans and that the improvement plan is to assist teachers to be better. Gunderson was at all meetings related to improvement plans for Binko.

Gunderson described Binko as very defensive, almost to the point of being angry. Gunderson said that SPPS has a right to implement improvement plans and a teacher has to be respectful and cooperative. Gunderson understands how people

feel when on an improvement plan, but they don't want to burn bridges – they need to be professional. Gunderson said that Binko's reaction to being placed on an improvement plan was inappropriate.

Gunderson stated that, to his knowledge, McDonough has always read the "Tennessen Warning" when there is an investigative meeting.

Gunderson was present at the meeting Stachel arranged for Binko on August 14, 2008 to present her side of the story. Stachel explained that the discharge was solely related to Binko's failure to make satisfactory progress on the improvement plan and behavioral issues. Gunderson said this was the first arbitration relating to an improvement plan.

Gunderson had encouraged Binko to try to adapt to what administration wanted and to have accountable talk with students to determine if students are learning. Gunderson said that every teacher in St. Paul Public Schools is being asked to teach in a proscribed manner. If not, some one is going to observe that they are deficient.

Gunderson said that it appears that one half of the teachers in improvement plans, that haven't made acceptable progress, have been removed through resignation or retirement.

Gunderson confirmed that Memorandums of Understanding are considered CBA terms and conditions of employment the same as all other provisions. The reason the Memorandums are placed in the rear of the CBA is because it is easier to make changes.

On September 25, 2008, Stachel signed and served on Binko a statement of proposed charges and causes of discharge, which was prepared by the Assistant SPPS General Counsel.

Kelly scheduled a "Loudermill" meeting with Binko on October 2, 2008 for the purpose of giving Binko the opportunity to present her position on the proposed suspension and discharge. Kelly gave Binko the option of submitting her position in

writing. Binko did not attend the meeting, but submitted a copy of a letter addressed to Meria Joel Carstarphen, Superintendent of Schools.

In Binko's letter to Carstarphen, Binko challenged the proposed discharge on the basis that she had not been give a "Tennessen Warning." Binko requested that all data, upon which the proposed discharge is based be removed from her personnel file and destroyed. Binko also alleged that data in her personnel file was incomplete and inaccurate. Binko's letter went on to give her position on the various events that let up to McDonough's recommendation for her discharge. Finally, Binko stated that, until her alleged violations of the Data Practices Act are resolved, she would not participate in any further investigative processes. Binko stated she was preparing a request for an advisory opinion from the Minnesota Department of Administration.

On October 7, 2008, Kelly submitted a recommendation for discharge of Binko to Meria Joel Carstarphen, Superintendent of St. Paul Public Schools.

On October 7, 2008, Superintendent Carstarphen sent a letter to Binko notifying her that the recommendation for her discharge was being accepted. Carstarphen informed Binko that the charges against her were filed with the clerk of the Board of Education on October 7, 2008 and she will ask the Board of Education to accept the charges on October 21, 2008.

Carstarphen also informed Binko she was accepting Kelly's recommendation that Binko be suspended without pay pending completion of the discharge proceeding.

Binko pointed to the references in a "Leadership Profile Report," adopted by the School Board on September 22, 2009, as confirming her contentions of discourse and incompetency in SPPS.[14] Although these references cast less than a favorable light on SPPS, the relevance to the instant case is whether Binko is being disciplined for incompetency and behavior unlike that applied to other employees similarly situated. There is no evidence in the record to indicate that is the case. Gunderson's

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[14] Binko Exhibit #33.

testimony indicates that other teachers who are not making satisfactory progress on their improvement plan are also being removed.

Binko made allegations regarding discipline administered to Mc'Donough. Quinlan, McDonough's supervisor, testified that she had investigated the allegations and found no evidence to support them. McDonough testified that he has never been disciplined by SPPS. Quinlan testified that McDonough was chosen as Principal for Hazel Park Academy because of he was the most highly qualified person for the position. McDonough testified that he went to Hazel Park Academy because he saw more opportunity there. McDonough testified that there was no effort to move him out of Humbolt school.

FINDINGS

The preponderance of evidence shows that Binko's teaching was not in compliance with the "Standards of Effective Teaching" established by SPPS and the teacher's Union. Notwithstanding the numerous efforts of administration and the Union to provide improvement through counseling and coaching, Binko rejected these efforts and stuck to her "project based" method of teaching.

Administration's assessment of learning among Binko's Social Studies students is based on observations of her teaching methods and student opinion, not actual comparative student learning achievement with other teachers or schools. There are standardized tests to measure learning achievement in the areas of math, reading and science that allow such comparison, but not for Social Studies,

Experienced educators, who have a record of successful results, have developed the "Standards of Effective Teaching". Compelling testimony in support of the "Standards" was by Mary Beth Blegen, an educational consultant, who works with schools and individual teachers on process and change. Blegen, who holds the title of "National Teacher of the Year," emphasized that the objective is "student learning focused, not teacher focused."

The preponderance of evidence also shows that Binko acted in an insubordinate manner. The requirement to teach in accordance with the "Standards of Effective Teaching" was a clear teaching directive. It was provided to teachers in the "Career in Education Program Booklet. " A seventeen-member board, made up of teachers and members of administration, developed the program.

The record shows Binko was argumentative, rude, disrespectful and refused to adopt the "Standards of Effective Learning." Binko held steadfastly to her own "project learning" process, rejecting the numerous efforts of a number of coaches and her Union, who tried to assist her.

AWARD

The discharge is sustained.

A preponderance of the evidence shows that Julie Binko was inefficient in teaching and insubordinate.

CONCLUSION

The Parties are commended on the professional and through manner with which they presented their respective cases. It has been a pleasure to be of assistance in resolving this matter.

Issued this 25th day of March 2010 at Edina, Minnesota.

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ROLLAND C. TOENGES, ARBITRATOR