

IN THE MATTER OF THE ARBITRATION BETWEEN

ST. LOUIS PARK PRINCIPALS	)	MINNESOTA BUREAU OF
ASSOCIATION,	)	MEDIATION SERVICES
	)	CASE NO. 12-PA-1165
	)	
Association,	)	
	)	
and	)	
	)	
INDEPENDENT SCHOOL DISTRICT	)	
NO. 283 (ST. LOUIS PARK),	)	DECISION AND AWARD
	)	OF
Employer.	)	ARBITRATOR

APPEARANCES

For the Association:

Roger J. Aronson  
Attorney at Law  
P.O. Box 19350  
Diamond Lake Station  
Minneapolis, MN 55419

For the Employer:

Kevin J. Rupp  
and Tessa S. Wagner  
Rupp, Anderson, Squires  
& Waldspurger, P.A.  
Attorneys at Law  
Suite 1200  
527 Marquette Avenue South  
Minneapolis, MN 55402

On April 12, 15 and 16, 2013, and on May 14, 2013, in St. Louis Park, Minnesota, a hearing was held before Thomas P. Gallagher, Arbitrator, during which evidence was received concerning a grievance brought by the Association and the grievant, Freida M. Bailey, against the Employer. The grievance alleges that the Employer violated the labor agreement between the Assoc-

iation and the Employer 1) by issuing a Notice of Deficiency to the grievant, 2) by suspending her for ten days without pay and 3) by requiring her "transfer and/or demotion to an alternative position," which action, it is alleged, had a negative impact on her employment status. Post-hearing written argument was received by the arbitrator on June 14, 2013.

#### FACTS

The Employer (sometimes, the "District") operates the public schools in St. Louis Park, Minnesota, an inner suburb of Minneapolis. The Association is the collective bargaining representative of the Principals and Assistant Principals employed by the District.

The grievant began teaching in Texas in 1985. While in Texas, she taught students in Grades 1, 2, 4 and 5. In 2002, she enrolled in a program leading to a degree in school administration, and she began working in Texas as an elementary school Assistant Principal. At the start of the 2006-07 school year, she accepted an offer to teach for the Employer, beginning at the District's Cedar Manor School ("Cedar Manor"), a school that taught students in grades 4, 5 and 6. At the start of the 2007-08 school year, the District promoted her to the position of Principal at Cedar Manor. She continued as Principal of Cedar Manor in the 2008-09 and 2009-10 school years.

In late 2009 and early 2010, the District planned a reorganization of its schools, which it implemented in the fall of 2010 as the 2010-11 school year began. As part of the reorganization process, the District closed Cedar Manor and

changed the grades taught at other schools. Some schools had previously taught only students from Kindergarten through Grade 3 (referred to by the parties as "primary grades") and other schools had previously taught only students in Grades 4, 5 and 6 (referred to by the parties as "intermediate grades"). The reorganization closed Cedar Manor, an intermediate-grade school, and it redesignated the grade levels of three other schools -- "Susan Lindgren" School, "Aquila" School and "Peter Hobart" School, which had taught students in the primary grades. With the reorganization, Susan Lindgren, Aquila and Peter Hobart all became "elementary" schools that taught students from Kindergarten through Grade 5.

In the spring of 2010, the grievant was given the opportunity, before other transferring Principals, to choose which of the three elementary schools she would transfer to as Principal for the forthcoming 2010-11 school year. She decided to become Principal of Aquila. The reorganization also required the reassignment of teachers for the 2010-11 school year. Most of the teachers who had taught at Aquila when it was a primary-grade school remained there, still teaching students in the primary grades. Most, but not all, of the teachers who taught students in Grades 4 and 5 at the reorganized Aquila came from Cedar Manor.

In the fall of 2010, after the grievant began to serve as Principal of Aquila, the District received complaints about her performance from Aquila teachers and from parents of Aquila students. I describe those complaints below in my discussion of the allegations made about the grievant's performance in the

Notice of Deficiency -- which was issued to the grievant on December 7, 2011.

The District's investigation of the complaints against the grievant began in the early part of the 2010-11 school year, as the complaints were received. On March 23, 2011, Robert Laney, Assistant Superintendent of Schools, sent the following letter to the grievant informing her that she was being placed on paid administrative leave:

You are hereby advised that you are placed on paid administrative leave, effective immediately, until further notice. The reason for this action is to permit the School District an opportunity to complete an investigation relating to various allegations against you. . .

At such time as the investigation is complete, you will be advised of the date and time of a meeting with School District administration. At that time, you will be advised of the allegations against you and be afforded the opportunity to respond.<sup>1</sup> If you so choose, you may bring a union representative to represent you. In the interim, the administrative leave will remain in effect until the School District has completed its investigation and determined what action is to be taken regarding your employment. [Underlining added.]

On December 7, 2011, Laney sent the grievant the Notice of Deficiency at issue in this proceeding. In its eight pages,

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1. I note that the grievant's opportunity to respond to allegations was not limited to the time after the completion of the District's investigation, as the underlined sentence above may imply. Rather, she had that opportunity, as well as the opportunity to have Association representation, during the process of investigation. It also appears that -- during the investigation and as early as the summer of 2011 -- the grievant and her Association representative were "advised of the allegations against" her, in substantially the same form as those allegations were finally stated in the Notice of Deficiency of December 7, 2011.

it makes allegations that are categorized into nine "Groups." Below, I set out the opening paragraphs of the Notice of Deficiency and the titles Laney gave to those nine Groups, as well as a tenth paragraph, titled "X. Closing," but I defer reproduction of the text in which he states, for each of the nine Groups, the conclusions reached about the specific complaints that were investigated:

This letter constitutes a formal notice of deficiency issued pursuant to Minnesota Statutes Section 122A.40. This letter is intended to notify you that your performance is deficient and must improve. This letter is also intended to place you on notice that failure to correct the deficiencies in your performance may lead to disciplinary action against you, up to and including the termination of your employment with Independent School District No. 283. As a result of your deficient performance, which is described below, you will be suspended without pay for ten days. You will serve the unpaid suspension on December 9, 2011 through December 22, 2011.

An independent investigation was conducted regarding concerns and allegations that have been raised with respect to your performance as a principal for the District. As part of this investigation, you were interviewed and given the opportunity to submit supplemental information after your interview [hereafter, the "Supplementary Statement"]. The investigation substantiated, in whole or in part, a number of the concerns and allegations that were raised with regard to your job performance. The specific deficiencies in your job performance and the factual grounds for the suspension are stated below.

- I. Failure to Follow up on Complaints Regarding a Teacher. . . .
- II. Failure to Properly Address Student Discipline.  
. . .
- III. Failure to Timely Investigate Student Misconduct and Alteration of Student Conduct Form. . . .
- IV. Failure to Hold Sufficient Number of Safety Drills.  
. . .
- V. Failure to Have a Crisis Prevention Institute ("CPI") Plan in Place at Beginning of School Year.  
. . .
- VI. Failure to Communicate with Staff and Parents. . . .

- VII. Failure to Be an Effective Leader. . . .
- VIII. Failure to Make Morning Announcements Appropriate for All Students. . . .
- IX. Failure to Establish a Sense of Community. . . .
- X. Closing.

Your immediate attention is directed to the deficiencies set forth in this letter. Your job performance must improve significantly if you intend to remain an employee of the District. Any reoccurrence of such behavior contained in this letter will be deemed to constitute insubordination and will necessarily result in a more severe disciplinary consequence against you, up to and including the immediate termination of your employment by the District. . . .

On December 27, 2011, the grievant sent the Employer the following grievance, which she had prepared:

Please take notice that Ms. Freida Bailey is grieving the negative employment actions of suspension and transfer and/or demotion to an alternative position in the district. This notice is in lieu of attachment C to the Principal's Collective Bargaining Agreement. I am grieving the following specific actions of the School District:

An investigation was conducted without allowing me to respond in an adequate manner. I was not allowed access to evidence that would have justified, excused and mitigated my behavior.

I have received discipline without just cause or cause.

I have received discipline disproportionate to any of my actions.

I did not receive adequate support from my immediate superiors or other district administrators.

I have been treated differently than other principals in the District.

I request that the investigative report be removed from my file. I request that I receive full back pay for my suspension. I request assignment to a similar position and status within the District.

The grievant remained on paid administrative leave until January 1, 2012, when she was reassigned to a position titled, "Principal on Special Assignment." She continues to work in

that position. As such, she coordinates District-wide information relating to special education and other federal education programs. Except for the loss of pay that was incident to her ten-day disciplinary suspension, she has continued to receive the pay and benefits established for Principals by the parties' labor agreement.

#### DECISION

In its post-hearing brief, the Association writes that "the core issue is whether the Employer had just cause to (a) remove [the grievant] from her Principal position, (b) suspend her for ten days, (c) issue the Notice of Deficiency and whether the Notice of Deficiency contains information that is false or inaccurate." Before deciding whether the Employer had just cause to remove the grievant from her Principal position or to suspend her for ten days, I discuss issues concerning the accuracy of the nine Groups of allegations made in the Notice of Deficiency.

Below, I reproduce the full text of the first of the nine Groups of allegations made by the Notice of Deficiency:

#### I. Failure to Follow up on Complaints Regarding a Teacher.

You failed to follow up on a number of complaints regarding a teacher. Both parents and staff reported their concerns regarding this teacher as early as the 2009-2010 school year at Cedar Manor. Three different teachers reported their concerns to you. It was reported that the teacher yelled loudly, belittled students, and caused disruption to other teachers' classes. Two different parents also reported their concerns regarding the teacher in the 2009-2010 school year. Similar to the teachers' reports,

parents reported that the teacher made rude comments to students, yelled at and belittled students. Parents continued to report their concerns regarding the teacher in the 2010-2011 school year at Aquila. You agreed that a particular parent reported that the teacher played favorites, belittled students, yelled at students, made rude comments, and called this particular parent's child an ape during class.

In response to these reported concerns, which spanned over two school years and two different schools, you stated that you had two conversations with the teacher and that the teacher attended some type of training, of which you provided no details. You agreed that your conversations with the teacher were more collaborative and coaching in nature. You did not reprimand the teacher in any manner. You did not otherwise address the teacher's behavior, which continued to occur.

Your minor and ineffective interventions did not appropriately address parent or staff concerns or the teacher's behavior. As Principal, you are expected to promptly and appropriately address potential staff misconduct. Your failure to do so is not only unacceptable, it demonstrates poor professional judgment.

To preserve the anonymity of the teacher described in this part of the Notice of Deficiency, I refer to her in this discussion as "AB." The Employer presented testimony from parents and teachers that supported the allegations made in the Notice of Deficiency about AB's loud and rude manor when teaching her students. The grievant testified that AB had taught at Cedar Manor when the grievant was Principal there and that, when Cedar Manor closed, AB moved to Aquila for the 2010-11 school year. The grievant testified that AB, who taught Spanish, was a good teacher and that she worked well with bilingual students. The grievant acknowledged that she received a complaint from another teacher while at Cedar Manor that he could hear AB's voice while he was in his nearby classroom.

The grievant testified that in the 2009-10 school year at Cedar Manor 1) she spoke to AB about her loud voice, 2) she monitored what she could hear while in the hallway outside AB's classroom, and 3) she told AB about a workshop that offered training in how to interact with students. The grievant testified that she thought AB's manner of teaching improved.

Nevertheless, in the 2010-11 school year at Aquila, the grievant continued to receive complaints about AB's loud and rude manner in teaching her students. The grievant testified that AB had surgery and was on sick leave during an unspecified part of the 2010-11 school year. In March of 2011, the grievant thought that AB should be issued a Notice of Deficiency and a reprimand. She consulted with Laney and with the Principals of two other District schools about how to proceed. After doing so, the grievant asked AB to attend a disciplinary meeting with her. AB had her union representative attend the meeting, and the union representative asked to stop the meeting before it was completed. The grievant testified that then, on March 23, 2011, before she had completed the process of disciplining AB, she [the grievant] was removed as Principal of Aquila.

On July 11, 2011, Laney issued a Notice of Deficiency and Reprimand to AB, describing many incidents of loud and rude behavior toward students. On May 11, 2012, Laney issued another Notice of Deficiency and Reprimand to AB for similar conduct. AB resigned as a teacher for the District before the 2012-13 school year.

On August 18, 2011,<sup>2</sup> Kevin J. Rupp and Tessa S. Wagner, the Employer's attorneys, conducted a lengthy interview of the grievant. Roger J. Aronson, the Association's attorney was present during the interview. The interview was recorded, a transcript of the questions and the grievant's answers was made, and it was presented in evidence at the hearing before me. On September 27, 2011, Aronson sent Rupp a Supplementary Statement that the grievant prepared after she had read the transcript of the interview of August 18, 2011.

In her Supplementary Statement, the grievant wrote 1) that AB's sick leave for surgery extended from the spring of 2010, when she was at Cedar Manor, till the "beginning of the 2010 Fall school year," 2) that, when the grievant did decide to start a process to discipline AB, she sought advice from Laney and two other Principals "for guidance since this would be my first teacher situation," and 3) that, after having met twice with AB and her union representatives, Laney called her and told her to stop the investigation.

I reach the following conclusions about the first of the nine Groups of allegations made by the Notice of Deficiency. It appears from the evidence that, at Cedar Manor when the grievant first became aware of problems with AB's performance, she, appropriately, tried to correct AB by coaching and training, but

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2. I note that, though the investigative interview, which occurred on August 18, 2011, preceded the date of the Notice of Deficiency, dated December 7, 2011, it uses the same Group headings. See footnote 1, above.

that the effort was unsuccessful. As Laney testified, it was the grievant's responsibility, as Principal, to undertake further discipline in an effort to correct AB's performance. The grievant did begin that process in March of 2011, but was unable to continue with it after March 23, 2011, or perhaps sometime slightly previous to that date, when Laney directed her to stop. Eventually, AB was issued a Notice of Deficiency and a Reprimand by Laney on July 11, 2011, about four months after the grievant's first efforts toward formal discipline.

Because the complaints about AB were serious, numerous and continuing, it appears that, as Laney concluded, the grievant should have started formal discipline earlier than March of 2011. The evidence shows at least several possible causes of the grievant's delay -- 1) that, as she testified, she favors coaching and training, and 2) that her lack of experience in disciplining teachers led her to postpone discipline.

I conclude that the statements made in the first of the nine Groups of allegations in the Notice of Deficiency are true, but that the grievant's explanations, as noted above, should serve as a supplement to those allegations.

Below, I reproduce the full text of the second of the nine Groups of allegations made by the Notice of Deficiency:

## II. Failure to Properly Address Student Discipline.

You failed to fill out a written notice of suspension for each student suspension that occurred at Aquila during the time you presided as Principal. At least twelve student suspensions occurred during this time. Although you stated that you filled out the written notices of suspension, records reveal only

one written notice of suspension for that time period. Your failure to fill out the remaining notices of suspension violates the Pupil Fair Dismissal Act, which requires that a written notice containing the grounds for suspension be served upon the student and upon the student's parent or guardian. As Principal, you are expected to follow proper student discipline procedures, including those found in school policy and state law. Your failure to do so on a number of occasions is unacceptable and placed the District at risk of potential claims of procedural violations of the Pupil Fair Dismissal Act. In addition, you failed to communicate with a parent in regard to an incident where the parent's child was bullied and threatened on the bus in October 2010. After the parent contacted you, an investigation was conducted, but you never followed up with the parent regarding the results of the investigation or what the District was going to do about the matter. The parent received no feedback of any kind from you. You acknowledged that you did not remember getting back to the parent with regard to this situation after the investigation was conducted. As Principal, you are expected to conduct yourself in a professional manner when interacting with students, parents, and staff. This includes communicating effectively with parents. Your failure to do so, especially in a matter involving a student's safety, is unacceptable and violates the District's expectations of professionalism.

Moreover, your conduct created the perception by some parents that you did not respond to or address their concerns regarding the safety of their children. The safety of students is of paramount concern to the District and it is critical that you and your actions appropriately convey this message to staff, students, and parents.

On another occasion, you failed to do anything meaningful when the two children of another parent were bullied. Although you were made aware of both incidents of bullying, you did not contact the parent with regard to the bullying of the older child. Again, your conduct created the perception that you did not address the parent's concerns regarding the safety of her child. With regard to the parent's younger child, you failed to adequately communicate with the parent to assure the parent that her younger child would be safe. During telephone conversations, the parent expressed that she hoped you could help her with a situation where this particular child was being bullied on the bus. You responded by saying, "I hear you," or words to that effect. When the parent specifically asked you if her child was safe,

without responding to the question you stated, "I understand," or words to that effect. Your conduct left the parent with the impression that you could not ensure her child's safety. As stated, the safety of students is of paramount concern to the District. Your failure to communicate this to the parent is unacceptable and demonstrates poor professional judgment and a lack of effectiveness.

The first allegation in this Group is that records showed that the grievant prepared only one notice of suspension in the time she was Principal at Aquila. The Employer presented evidence supporting this allegation.

I summarize the grievant's testimony about this allegation as follows. Aquila employed a Behavior Specialist, Riley Hoffman, whose primary responsibility was to handle student discipline problems. Most of the time, Hoffman would be the first person contacted by teachers when a student discipline problem arose. Hoffman would report to the grievant if a problem arose that he wanted help with. The grievant also spent about two hours a day handling student discipline. The grievant preferred not to suspend students from school and tried to use alternative methods so that students would remain in school -- such as a "time-out" or an "in-school suspension." She testified that, if a suspension was for not more than one day, a notice of suspension was not required. I understand this testimony to be an explanation for the lack of records showing notices of student suspensions.

The second and third allegations in this Group are that the grievant "failed to communicate with a parent in regard to an incident where the parent's child was bullied and threatened on the bus in October 2010" and that the grievant "failed to do anything meaningful when the two children of another parent were

bullied." The Employer presented testimony of parents that supported these allegations.

I summarize the grievant's testimony about these allegations as follows. She denied that she had failed to communicate with the parent about the bullying incident that occurred on the bus in October of 2010. The Association presented a series of notes between the grievant and Laurie M. Erickson, a Special Education teacher, relating to a bus discipline problem caused by two special education students who were fighting on the school bus. In these notes, the grievant describes meetings that occurred with parents and staff. Because the notes exchanged between the grievant and Erickson are dated in January and February of 2011, it is not clear whether they relate to the incident of October of 2010. The communications do show, however, that the grievant was communicating with a member of the Aquila staff and with parents about a student discipline problem.

The grievant denied responding, "I hear you," when a parent asked if her child was safe on the bus and at school, and the grievant testified that such a response, if made, would not be inappropriate.

Below, I reproduce the full text of the third of the nine Groups of allegations made by the Notice of Deficiency:

III. Failure to Timely Investigate Student Misconduct and Alteration of Student Conduct Form.

You failed to timely investigate an incident of student misbehavior. When this particular student misbehaved a second time, you altered the student discipline form so that it could be interpreted that

all of the student's misbehavior occurred on one date, as opposed to two different times.

Specifically, on February 10, 2011, a teacher [Kenneth D. de Neui] reported to you an incident of student misbehavior. At that time, you stated that you would prepare a student discipline report regarding the student's misbehavior on the bus and would talk to the student about his misbehavior. You, however, did not take any action to investigate the student's February 10 misbehavior until February 25, 2011 when the student was involved in another incident of misbehavior. The teacher who reported the February 10 misbehavior prepared a student discipline report on February 25, and referred to his meeting with you on February 10 where the teacher first reported the student's misbehavior to you.

You revised the teacher's February 25 student conduct report by leaving out information about your February 10 meeting with the teacher regarding the student's initial incident of misconduct on February 10. You also revised the teacher's student conduct report so that it could be interpreted that all of the student's misbehavior occurred on one day, February 25.

Student discipline records need to be accurate to not only ensure that student misconduct is appropriately documented, but to ensure that the appropriate discipline is imposed. Not only were your records misleading, your revisions resulted in inaccurate records, which is unacceptable.

The Employer presented testimony and documentary evidence supporting the allegations made in this Group. It appears from the testimony of de Neui that he reported the incident of February 10 to the grievant just after it occurred, that she told de Neui that she would speak to the student and prepare a student discipline report, that she did not prepare a student discipline report about what occurred on February 10 at that time, and that, when another incident by the same student occurred on February 25, she decided to prepare two reports, one for each incident both dated February 25, but without stating that one of the incidents occurred two weeks earlier. The grievant testified that she informed de Neui that she was

preparing two reports dated February 25. Her reports state that she spoke to the student and his parents, that she spoke to the school bus driver who had required the student to sit in an assigned bus seat.

The grievant testified that she had knee surgery in December of 2010 and that, when she had some temporary difficulty with her recovery in February of 2011, a substitute Principal filled in for her. The grievant testified that she had assumed that, while she was out on sick leave, the substitute Principal would resolve the student discipline incident of February 10.

In the following reproduction of the grievant's account of these occurrences, as given in her Supplementary Statement to the investigative interview of August 18, 2011, I have used brackets to state my clarifying inferences:

As I mentioned during the interview, this did not occur as mentioned. The teacher [de Neui] came to me with a concern about the bus driver not having a list of the students on the bus. This conversation occurred when students were being dismissed [about February 10 or 11]. I asked the secretary, Dee Gruning, to assist and her statement was that the drivers should have that on the bus. The teacher [de Neui] then stated about an incident that took place on the bus. When this occurred, I was leaving due to medical reason (knee). I asked the behavior specialist [Riley Hoffman] to investigate. Note there was no form from the driver but a statement from the teacher. I did not write the referral [the student discipline report]; the person that either witnessed or heard of the incident would write the referral [the student discipline report]. When I returned, the teacher [de Neui] put the referral [the student discipline report dated February 25] in my box with two incidents [noted in the report]. I contacted the teacher [de Neui] to ask if it was okay to split the one referral [student discipline report] into two so that it would be clear for the parent. This was done solely for that purpose. I was not altering information. I later contacted the parent

[of the bullied child] to explain what was on the forms and her response was that she was not satisfied with the consequence and would contact her friend. I asked who was the friend and she stated Debra, Debra Bowers [Superintendent of Schools]. I contacted Dr. Bowers the same day and informed her of this conversation. Dr. Bowers arrived in my office and we discussed the situation. She recommended that I send a letter requesting to meet. Hence, the letter and a copy of referrals [student discipline reports], bus safety and handbook. Copies were placed in the teacher's and the behavior specialists box.

The Employer's records show that, as of February 16, 2011, the grievant had taken 1.5 days of sick leave, but the dates are not specified.

I conclude from this evidence that, though the grievant told de Neui on or about February 10 that she would prepare the student discipline report and speak to the student, she felt unable to do so because of her impending sick leave. There is no showing that she informed Hoffman of the incident at that time, though she stated her intention to do so. She wrote two student discipline reports, one describing each incident of misbehavior, and she dated both reports February 25, without stating that one of the incidents had occurred two weeks earlier.

I agree with the conclusion reached in the Notice of Deficiency that these actions of the grievant imply an intention to avoid stating that she did not prepare the first report on or about February 10, as she told de Neui she would do. It also appears, however, that the grievant's failure to prepare the first report soon after February 10 may have resulted from her concern about her impending absence on sick leave.

Below, I reproduce the full text of the fourth of the nine Groups of allegations made by the Notice of Deficiency:

IV. Failure to Hold Sufficient Number of Safety Drills.

You failed to hold a sufficient number of safety drills at Aquila. Minnesota law requires schools to hold at least five school fire drills, five lock-down drills, and one tornado drill each school year. The Aquila Handbook states that one fire drill will be conducted each month. You presided as Principal at Aquila for approximately seven months. However, the 2010-2011 Report of School Fire Drill/Lockdown/Tornado Drill forms reflect that in those seven months you held only one safety drill, a fire drill on October 4, 2010 at 2:15 p.m. The 2010-2011 Report form reflects that the interim Principal held the remainder of the required fire drills. In addition, you admitted that you did not hold a tornado drill at Aquila and the 2010-2011 Report form reflects that all lock-down drills were held by the interim Principal in the spring.

Emergency practice procedures are in place to ensure that students and staff are prepared and know how to proceed in the event of an emergency. For approximately the first seven months of school, you failed to ensure that students and staff were prepared and knew how to proceed in the event of a lock-down emergency because you did not hold any lock-down drills. In addition, your failure to hold a sufficient number of fire drills not only violated the Aquila Handbook, but had the potential to place the safety of students and staff at risk.

The evidence shows that, by March 23, 2011, when the grievant was placed on leave from her position as Principal of Aquila, she had conducted one fire drill, and had not conducted any lockdown drill or a severe weather drill. The grievant testified that there might have been one additional fire drill that was not entered in the Drill Report. She testified that in the early part of the 2010-11 school year she had been waiting to receive "walkie-talkies" with which to communicate about drills after an alarm or bell signaled the start of the drill.

The evidence shows that, when the grievant was Principal at Cedar Manor, all of the required drills were conducted, though many of them were not held till March, April and May.

The evidence supports the allegations made in this part of the Notice of Deficiency -- that the grievant failed to conduct safety drills in a timely manner.

Below, I reproduce the full text of the fifth of the nine Groups of allegations made by the Notice of Deficiency:

V. Failure to Have a Crisis Prevention Institute ("CPI") Plan in Place at Beginning of School Year.

You agreed that a CPI Plan was not in place at the start of the 2010-2011 school year at Aquila. You "agree[d] wholeheartedly" that a CPI Plan should have been in place at the beginning of the 2010-2011 school year. Your failure to ensure that a CPI was in place at the start of the 2010-2011 school year is unacceptable and again demonstrates a lack of effectiveness in your ability as a Principal.

Tina R. Robertson, a Special Education Teacher, testified as follows. There are times when the behavior of a Special Education student may become extremely disruptive, triggering a need for intervention by staff who are trained and have experience in calming such behavior. A "Crisis Prevention Institute" Plan requires the advance determination of methods for dealing with such a crisis, by designating the proper CPI Team to do so and by providing plans and walkie-talkies that will allow quick assembly of the CPI Team whenever such a crisis arises. Because the Team must respond immediately to a crisis in behavior, the CPI Plan should be in place at the start of the school year. A training meeting of the CPI Team should occur first to discuss intervention methods.

Robertson testified that, at the start of the 2010-11 school year, there was no CPI Plan in place, that she talked to the grievant about the need for such a Plan within the first two

weeks of the school year. She also testified that by about the middle of October the CPI Plan was in place -- organized by her and the Special Education Coordinator. Robertson testified that the grievant did not have input in that process. She also testified that in her previous three years at Aquila, the CPI Plan had been organized by other Aquila staff.

The grievant testified that she thought the CPI Plan was in place in September at the start of the 2010-11 school year, though she conceded that it may not have been until late October that it was fully in place. She also testified that at the start of the year she tried to identify those in the Aquila building who should be on the CPI Team. In the grievant's Supplementary Statement, she wrote the following:

. . . Due to transition, we had to find out which staff was trained and provide training. I worked with [the Special Education Coordinator] on training to get members trained. Since Tina Robertson was team lead for spec. ed. and had been at Aquila the year before, she took charge in the matter after my discussion with her. I worked with the secretary [Dee Gruning] on purchasing enough walkie-talkies to accommodate staff. Basically, we could not get started due to no equipment or plans being in the building.

The evidence shows that at the start of the school year there were at least twelve walkie-talkies available at Aquila, but that, in mid-October, the grievant requested Gruning to order three more.

From this evidence, I reach the following conclusions. The CPI Plan was not fully in place at the start of the 2010-11 school year. It was the grievant's responsibility as Principal, in consultation with Aquila special education staff, to identify

those who should be members of the CPI Team and to see that the Team held an organizational first meeting at the start of the school year. The Notice of Deficiency is accurate in its statement that the grievant failed in her responsibility to have a CPI Plan in place at the start of the 2010-11 school year. In judging that failure, however, her explanation should be considered -- that the reconfiguration of Aquila, with new staff and students in new grades, was at least partly responsible for the delay.

The sixth, seventh, eighth and ninth Groups of allegations made in the Notice of Deficiency are related. They allege that, in several ways, the grievant failed to communicate effectively with staff, students and parents -- resulting in a lack of the leadership a Principal should provide to a school and in a lack in the "sense of community" that the parents, students and staff of a school should have.

The Employer and the Association presented testimony of parents and staff, much of which is relevant to the allegations in more than one of these four Groups, and I note that I have considered evidence with such overlapping relevance in determinations relating to these four allegations.

Below, I reproduce the full text of the sixth of the nine Groups of allegations made by the Notice of Deficiency:

VI. Failure to Communicate with Staff and Parents.

You failed to adequately communicate matters to Aquila staff. You acknowledged that when meetings would be cancelled, staff expressed concern that they never received notice that the meeting had been cancelled. Although you were aware of these staff

concerns, you did not address the gap in communication. Staff also expressed confusion over whether the office assistant could make copies for staff. While you stated that you had a conversation with the secretary regarding this confusion, you did not communicate the result of the conversation or the resolution to the rest of the staff. Similarly, although you stated that you arranged for staff to interpret and clarify second grade testing data, this interpretation and clarification was not communicated to second grade staff. You even acknowledged that the second grade staff "were a little leery in sharing [the data] with parents because they felt they didn't know much about how to share it with the parents and what it meant because it was new." In addition, the difference between the roles of team leads and leadership teams was not adequately communicated to staff.

You failed to effectively communicate with a teacher regarding a bus altercation involving two special education students. Although the teacher informed you of the bus altercation on more than one occasion, you had minimal communication with teacher and provided no effective assistance on the matter. Because of this, the teacher and one of the teacher's supervisors handled the bus incident on their own and together they developed an intervention plan for the students. While you denied that the teacher handled this matter on her own, both the teacher and the supervisor expressed that you provided no effective assistance on this matter.

In addition, you failed to communicate with Aquila parents. In particular, in the summer of 2010, you did not respond to a parent's emails regarding teachers and discipline. Seeking a response, the parent emailed Dr. Bowers [Superintendent of Schools] to inform her that you had not responded to her emails. You only responded to the parent after Dr. Bowers prompted you to do so.

You also failed to timely respond to a parent who wanted to volunteer at Aquila. The parent spoke to you on a Wednesday evening and expressed an interest in volunteering. The parent informed you that she would leave that Friday open to volunteer. You were to call her the next day, on Thursday, to let her know if she could volunteer the following day. The parent emailed you on that Friday, January 28, 2011 at approximately 11:00 a.m., expressing frustration that you had yet to contact her with regard to volunteering that day. You acknowledged that you did not contact the parent until after you received the January 28 email and, therefore, not until after the time the parent had left open to volunteer.

As Principal, you are expected to conduct yourself in a professional manner when interacting with students, parents, and staff. This includes communicating effectively, and in a timely manner, with staff and parents. Effective communication is integral to establishing you as the leader of the building. Your failure to do so on a number of occasions is unacceptable and violates the District's expectations of professionalism.

The Employer presented testimony supporting particular allegations made in this Group -- showing that the grievant often did not inform staff about a cancellation or rescheduling of staff meetings, or that she sometimes failed to respond to communications made to her by staff and parents. The grievant denied that she failed to make a response in some of the examples described in the Employer's evidence, but, in other such cases, she conceded that she had either not responded or made a late response. The Association presented the testimony of two Aquila staff who had also been at Cedar Manor when the grievant was Principal there. They testified that they had no problem communicating with the grievant and that "her door was always open."

Bowers testified that she and Laney met with the grievant at least five times from April of 2010 until she was placed on paid administrative leave in March of 2011 -- in an effort to improve her communication with parents and staff.

I rule that the evidence supports the allegations made in the Notice of Deficiency's sixth Group and that the Employer, by the coaching of Bowers and Laney, informed the grievant that she must improve her deficiency in communication.

Below, I reproduce the full text of the seventh of the nine Groups of allegations made by the Notice of Deficiency:

VII. Failure to Be an Effective Leader.

As Principal at Aquila, you were unable to effectively lead all Aquila staff. A significant portion of the staff expressed a desire to have more direction and involvement from you as the building Principal. Staff also expressed concern because you led no or few staff meetings. When asked if you led staff meetings or if you had others lead, you stated, "it depends." You, however, could not recall how many staff meetings you led in the 2010-2011 school year at Aquila. Staff further expressed that you were not visible at Aquila. Although you visited teachers' classrooms, you did not visit certain classrooms as much as others, which made you less visible to those staff. In addition, some staff were left with the impression that you did not hear the concerns they expressed to you. For example, although you stated that you understood the concerns that some staff had with their classrooms being moved to a different location and that you spoke with the staff about their concerns, staff were left with the impression that you did not hear their concerns. As Principal, you are expected to effectively lead the staff in your building. Your inability to effectively lead all Aquila staff is particularly concerning because as a newly merged school, staff, now more than ever, need to be able to look to you as the Principal for direction and guidance.

The Employer presented the testimony of several teachers who described the grievant's leadership as inadequate -- because, for two examples, she failed to visit their classrooms during the 2010-11 school year or failed to act as a leader at staff meetings. The Association presented the testimony of several teachers and other staff at Aquila who described the grievant's leadership as very good -- for example, that she successfully focused attention on improving student achievement in reading and mathematics. As a whole, the evidence shows that many of the staff thought that the grievant was not attentive to their concerns. Indeed, eleven teachers requested a transfer from Aquila during the time the grievant was Principal. Though this number of transfer requests is unusual, it may be partly

explainable by disharmony caused by the restructuring of the District's elementary schools. It also appears that dissatisfaction with the grievant's leadership was concentrated among teachers in the lower grades, while, generally, teachers in the upper grades, most of whom came from Cedar Manor with the grievant, were less concerned.

Below, I reproduce the full text of the eighth of the nine Groups of allegations made by the Notice of Deficiency:

VIII. Failure to Make Morning Announcements Appropriate for All Students.

The content of your morning announcements was not appropriate for all grade levels at Aquila. As Principal of a reorganized building educating students in grades pre-K to 5, it was important that information, which was communicated to the student body as a whole, be communicated in a manner that all students were able to understand. The primary grade students at Aquila, however, too often did not understand the content of your morning announcements, which appeared to be geared toward older students. As Principal, you are expected to effectively communicate with students in all grade levels at Aquila. Your failure to do so is unacceptable.

Jennifer K. Dening, a first-grade teacher, testified that the grievant's morning announcements, which were broadcast over a school-wide sound system, seemed too advanced for first-grade students and were more suited to older students. She testified that, as a consequence of this manner of making the announcements, she had to explain them to her first-grade students, thereby causing her to lose teaching time. Dening also testified that she thought there was a "distress" between two groups of staff -- those teaching the younger grades, who had taught at Aquila before the 2010-11 school year, and those who taught the upper grades, most of whom came from Cedar Manor.

With respect to this Group, the grievant's Supplementary Statement to the interview of August 18, 2011, states the following:

Document: Web information regarding Project Wisdom. This is the program I would use to connect with the Primary Years Programme in building character.

Below, I reproduce the full text of the ninth of the nine Groups of allegations made by the Notice of Deficiency:

IX. Failure to Establish a Sense of Community.

You acknowledged that, as Principal, you felt it was your responsibility to help foster a sense of community at Aquila. Your attempts to do so, however, were ineffective with a number of Aquila staff and parents. A significant portion of the Aquila staff expressed dismay at the lack of community during the time you presided as Principal at Aquila.

Staff also expressed concern that you had not made an effort to get to know them. Some parents expressed that they had not seen you make an effort to bring people together and rebuild the community. By way of example, some parents and staff expressed that you did not hold a sufficient number of school assemblies and the assemblies that you did hold were for fundraising purposes.

As Principal, you are expected to bring your school's staff, students and parents together to create a sense of community. As you know, creating a sense of community was especially important for the 2010-2011 school year at Aquila because you were leading a newly merged group of parents, staff, and students in grades pre-K to 5. The ineffectiveness of your attempts to create a sense of community is particularly concerning given the heightened need for such a community in the newly merged student body, staff, and parents.

In addition, it is alarming that eleven teachers expressed that they were requesting to transfer out of Aquila, and three parents stated that they had actually removed their children from the District, at least in part, because of your performance as Principal.

Several teachers testified that the grievant failed to create a "sense of community" during the 2010-11 school year at Aquila. Among these teachers was de Neui, who taught second grade that year. He testified that the grievant attended staff meetings, but only led the first one of the year, when she introduced herself. In addition, he testified that the grievant visited his classroom only once that he remembered and that she never came to observe him teach. He testified that having a sense of community among a school's staff, students and parents is important so that these participants come to share common goals and work to achieve them. He also testified that he could recall only one school assembly, the organization of which is a function of a school Principal, and that the grievant emailed all staff that she did not have experience in organizing assemblies and asked for help. De Neui asked to be transferred to another school because he thought the grievant's training did not fit in with the building.

Kelly L. Hanson is the parent of two children who attended Aquila during the 2010-11 school year -- a son who was in fourth grade and a daughter who was in second grade. For fifteen years, Hanson has been a third-grade teacher in a school district adjacent to the St. Louis Park School District. She testified that during the 2010-11 school year she became concerned because Aquila lacked a sense of community, which she described as the students' feeling of belonging, which generates their excitement about participating in the school's programs. Her children became reluctant to go to school for the first

time. She was concerned because she knew that Aquila teachers were requesting to be transferred away from Aquila.

Tanya A. Rae-Schmidt testified that she has been a Kindergarten teacher at Aquila for seventeen years. During the 2010-11 school year, she requested to be transferred to another school because she wanted to work in a building where there was more leadership and a greater sense of community.

Nicole M. Patel, who was a second-grade teacher at Aquila during the 2010-11 school year, testified as follows. She described the school's "atmosphere" as confusing because she could not always get the information she needed from the grievant. The school lacked a sense of community that year, and she thought that, because some Aquila students did not have a strong home community, it was especially important for them that they feel a part of a school community. Patel requested a transfer away from Aquila in January of 2011 because she was unable to get information she needed from the grievant.

Laurie R. Erickson, who was a a special education teacher at Aquila during the 2010-11 school year, testified as follows. She has taught at Aquila for ten years. In about November or December of 2010, before the holidays, she sent the grievant two emails and a note about a problem two of her students were having with transportation to school. Erickson testified that the grievant did not respond, but that eventually, Erickson resolved the problem through the effort of the Special Education Coordinator. She testified that she thought the grievant tried to merge the Aquila staff with the transferring Cedar Manor

staff, but did not do well. She requested a transfer, conceding that she did so only partly because of the grievant's performance, and that she wanted to go to the school where her previous Principal had been transferred. On cross-examination, Erickson testified that she did not recall receiving a note from the grievant dated in late January of 2011, but she denied having received a response to her pre-holiday emails. I note

- 1) that the grievant testified that she had knee surgery in December of 2010 and was on sick leave as she recovered, and
- 2) that her sick leave absence may explain the lack of an earlier response to Erickson.

Donna M. Loechler testified as follows. She was the Head Cook at Aquila for twenty-six years, including the 2010-11 school year. The grievant did not introduce herself to Loechler, nor did she invite her to staff meeting, as previous Aquila Principals had. She had a close working relationship with previous Principals. They told her about student field trips so that she could have the kitchen prepare lunches for the students to take with them. After the winter break in the 2010-11 school year, Loechler asked the grievant if the school could have the school picnic usually scheduled around Memorial Day. The grievant said she "would get back to you," but did not do so before she was placed on leave of absence on March 23, 2011.

Gina Q. Swenson, a first-grade teacher at Aquila for the past twelve years, including the 2010-11 school year, testified as follows. She was concerned about having a sense of community

at Aquila during that year because she knew the existing Aquila staff would have to merge with the transferring staff, mainly from Cedar Manor. She testified that there was not the "connect" she had hoped for. The grievant held few school assemblies, three that were merely "fund raisers" and two that were genuinely entertaining. In late February of 2011, Swenson requested a transfer away from Aquila, partly because she thought Aquila was lacking in leadership and partly for other reasons.

Nicole K. Berthiaume testified that she is the mother of a student who has difficulty hearing and for whom a case worker has recommended that the child's teacher have a loud voice and speak slowly. The child was a student at Cedar Manor during the 2009-10 school year and was transferred to Aquila at the start of the 2010-11 school year. Before the start of each school year Berthiaume, by voice-mail, asked the grievant (who was the Principal at Cedar Manor in 2009-10 and at Aquila in 2010-11) to assign her child to the teachers recommended by the case worker. Berthiaume testified that the grievant did not respond to either request. She decided to have her child go to a charter school for the 2010-11 school year because the teacher she was assigned at Aquila to was unsuitable and because Berthiaume thought the child needed a quieter environment after having a cochlear implant.

As noted above in my discussion of the sixth and seventh Groups of allegations -- that the grievant failed in her responsibilities to communicate and to lead, the Association presented the testimony of teaching staff and others who

testified that the grievant was not deficient in her communication or her leadership.

In addition, the grievant's Supplementary Statement to the investigation report of August 18, 2011, gives the following response to the ninth Group of allegations made in the Notice of Deficiency:

I attended every family event, Parent/teacher meetings, PTO meetings (which were recorded). Each meeting, I would walk the building to greet and talk with staff that was present. This would occur after school as well. Every Friday, we would have a staff get-together in the teachers' lounge and if I was available, I would attend. The first couple of months, our staff meetings dealt with creating a sense of community and we discussed the work of Anthony Muhammad, Transforming School Culture. My purpose for doing this was because of some staff not wanting to be at Aquila due to the organizational changes.

While working in the district, I received notice that four teachers were requesting a transfer. During our principals' meeting, I have a document on March 8, 2011 showing only 5 transfer requests. I was aware of two teachers because they came to me and stated that in order to be considered for another position, i.e., reading specialist, reading teacher, etc., they had to place a request to transfer. I have not been approached by a parent regarding my performance and wanting to move their children or child.

The Notice of Deficiency. I make the following rulings and reach the following conclusions. The Association argues that the Notice of Deficiency contains information that is false or inaccurate. I find that much of the Notice of Deficiency is supported by the evidence, but also that there are ameliorating factors that explain some of the grievant's deficiencies in performance.

For example, the grievant was alerted by teachers and parents to the loud and rude manner that AB used in teaching at Cedar Manor and again at Aquila. The evidence shows that in

March of 2011 the grievant finally began the process of disciplining AB in an effort to correct her performance, but that the grievant's involuntary leave of absence interrupted the process. The grievant explained that her delay in disciplining AB was caused in part by her effort to use counseling and training before disciplining AB and then by her attempt to learn about the discipline process from others with experience. I accept Laney's opinion that the grievant, as Principal, had a responsibility to act earlier.

The second Group of allegations charges that the grievant did not use a written notice of suspension when students were suspended from school and that she failed to communicate with parents in several incidents of alleged student bullying. I find that the grievant's communication with parents about bullying should have been more responsive, showing an intent to take action to eliminate the problem.

The third Group of allegations charges that the grievant failed to make a timely investigation of student misconduct and altered a student conduct form. As I have stated above, the grievant's actions imply an intention to avoid stating that she did not prepare the first student discipline report on or about February 10, as she told de Neui she would. It also appears, however, that the grievant's failure to prepare that report then may have resulted from her concern about her impending absence on sick leave.

The fourth Group of allegations charges the grievant with failure to conduct required safety drills. The evidence confirms

this deficiency in performance. When she was placed on leave of absence, she had ordered only one of the eleven required drills.

The fifth Group of allegation charges the grievant with failing to have in place a CPI Plan at the start of the 2010-11 school year. The evidence shows that no CPI Plan was in place until late October of 2010 and that it was the grievant's responsibility to have the CPI team prepare such a plan at the beginning of the school year.

I skip now to the eighth Group of allegations: that the grievant's morning announcements were not suited to primary grade students. Two primary grade teachers testified that they thought the grievant's morning announcements were difficult to understand by the students they taught. Without having examples of the allegedly unsuited announcements, it is difficult to confirm those opinions. Whether or not the opinions were warranted, however, the most appropriate means of correcting such a problem would be to discuss it with the grievant rather than to cite it as a "deficiency" in the process of formal discipline.

The sixth, seventh and ninth Groups of allegations charge the grievant with failure to communicate with staff and parents, with failure to be an effective leader and with failure to establish a sense of community. The evidence the Employer presented in support of these allegations shows that they are related. It shows that the grievant had an apparent reticence, a difficulty in engaging with parents and with some staff. Testimony, however, from some of the staff who came with the

grievant from Cedar Manor shows that with time and familiarity, she was able to ameliorate the problem. Nevertheless, I conclude that, with the exceptions noted in this Decision, the Notice of Deficiency is accurate.

The Association urges that, arguendo, even if I were to determine that the Notice of Deficiency is not false and inaccurate, the Employer should not have issued it -- because it should have been preceded by less severe corrective action, i.e., by training and counseling designed to correct the grievant's performance. The evidence shows that Bowers and Laney, the grievant's supervisors, counseled her with respect to her responsibilities as Principal -- to communicate with parents and staff, to lead staff and to provide a sense of community. They did so many times during the 2010-11 school year and at least once during the spring of 2010, when decisions were being made about assigning Principals to the reorganized elementary schools in the forthcoming year.

The evidence shows that these efforts of Bowers and Laney to counsel the grievant about her performance did not succeed in improving it, so that, in March of 2011, as staff and parents continued to complain, Bowers and Laney and ultimately the School Board felt obliged to place a different Principal in charge of Aquila as the Employer continued the investigation related to the grievant's performance. I rule that this decision was reasonable.

The Ten-Day Suspension. The Association argues that the Employer did not have just cause to suspend the grievant for ten

days without pay. The grievant has no record of prior discipline. The Association points out that the Notice of Deficiency, which states the underlying grounds for the suspension, alleges poor job performance rather than misconduct as the cause justifying the suspension. The Association argues that the poor performance alleged in the Notice of Deficiency was unintended conduct and that, as such, it does not provide just cause for a disciplinary suspension as the first discipline imposed upon the grievant.

I agree that the ten-day suspension was too severe as the first discipline imposed upon the grievant. Most of her performance problems appear to have been caused by inexperience that led to her difficulty in engaging with staff and parents. Some of the deficiencies, however, were not of that nature. Thus, she was negligent in performing her known duty to order safety drills, and it appears that her preparation of the student discipline report of February 25, 2011, was intended to avoid showing that she had failed to prepare the earlier report of February 10, 2011. In these circumstances, I conclude that the ten-day suspension should be reduced to a three-day suspension without pay.

Removal of the Grievant as Principal of Aquila. The Association argues that the Employer should not have removed the grievant from her position as Principal of Aquila on March 23, 2011 -- almost eight months before the Employer issued the Notice of Deficiency on December 7, 2011. The Association argues that the removal of the grievant from her position was at

least premature because it preceded the only warning she received that would provide her the opportunity to correct the alleged deficiencies in her performance. The Association also argues that removal of the grievant as Principal of Aquila had a severe adverse effect on her future employment status as a school Principal and that, because her removal was done before she had any disciplinary warning, the action contravened one of the primary goals of the statute that provides for the use of a notice of deficiency.

The Employer argues that it has a management right to determine how its personnel will be used and that it has discretion to determine how it will exercise that right. The Employer urges that its management right to reassign personnel is not subject to the just-cause standard that the labor agreement establishes for discipline -- provided that such a reassignment does not deprive the reassigned employee of benefits established by the labor agreement. The Employer notes that the grievant's removal from the position of Principal at Aquila put her on a paid administrative leave, causing no loss in pay or benefits and that her later reassignment to the position of Principal on Special Assignment did not reduce her pay or benefits.

The Association concedes that ordinarily an employer has discretion in making personnel assignments, but it argues that, because the grievant's removal from the position of Principal at Aquila was done without prior warning of alleged performance deficiencies, the removal was punishment, not done in good

faith. As I have noted above, the Association's brief states that one of the core issues in this proceeding is whether the Employer had just cause to remove the grievant from her Principal position. Nevertheless, the concluding prayer for relief in the Association's brief, which is set out below, does not seek an award that orders the Employer to assign the grievant to a position as a school Principal. Rather, it seeks an award recommending that she be considered for such a position, thus:

The grievance should be sustained. The suspension should be removed and [the grievant] be made whole for the ten-day suspension without pay. The Notice of Deficiency should be removed from [the grievant's] file. The arbitrator should recommend that [she] be considered for the next available principalship and that the District issue such directives as it deems reasonable and necessary to direct her work in that assignment.

I make the following rulings. I agree with the Employer that, in the absence of a provision in the labor agreement that restricts its management right to make a reassignment that will cause no loss in pay or benefits, an employer may ordinarily make such a reassignment -- a principle that is not in dispute in this proceeding. Except for the pay the grievant lost because of her ten-day disciplinary suspension, the grievant has continued to receive the pay and benefits of a Principal in accord with the terms of the parties' labor agreement.

Article IV of the labor agreement between the parties recites their recognition that the Employer is not required to negotiate on matters of inherent managerial policy, including the right to select personnel.

I rule that the Employer had the management right 1) to remove the grievant from her position as Principal of Aquila on March 23, 2011, and place her on a paid leave of absence with full benefits, and 2) to assign her on January 1, 2012, to the position of Principal on Special Assignment, also with the pay of a Principal and with full benefits.

I respond as follows with respect to the Association's prayer that I recommend that the grievant "be considered for the next available principalship and that the District issue such directives as it deems reasonable and necessary to direct her work in that assignment." The Employer has a management right to decide if it will reassign the grievant to another position as Principal of one its schools, and I do not intend the following suggestion to restrict that right in any way.

The grievant is a fifty-two year old African-American. Her record shows an ambitious interest in education -- a record that, I assume, had at least a part in causing the Employer to hire her. Nothing in the evidence before me indicates that the Notice of Deficiency, her suspension or her removal resulted from racial discrimination. It is possible, however, that the problems the grievant had in communication with staff and parents, in leadership and in building a sense of school community resulted from her inexperience and uncertainty as she sought to perform those functions among staff, parents and supervisors who are largely caucasian. I recognize that this possible explanation of the grievant's performance is speculation -- one that does not derive from explicit evidence, but one

that, nevertheless, seems an accurate explanation of the manner in which the grievant dealt with her responsibilities.

I suggest that both the grievant and the District may benefit by finding a way to provide her with more experience, thus increasing her confidence and lessening her uncertainty about dealing with others in the school community. If the Employer were to assign her to an Assistant Principal's position, she might obtain, by working under the direction of a Principal, the experience and confidence that would allow her eventually to perform well as a Principal. I assume that such an arrangement would have to occur with the grievant's acceptance of an Assistant Principal's compensation.

As I have stated, the suggestion above is just that. It is not part of my award, which appears below.

#### AWARD

The grievance is sustained in part. Her ten-day disciplinary suspension is reduced to a three-day suspension without pay. The Employer shall reimburse her with seven days' pay at the rate she was earning in December of 2011, when the suspension was served.

The Notice of Deficiency shall remain a part of the grievant's disciplinary record, amended, however, to show the modifications that I have found justified above in this Decision. Because of the complexity of the Notice of Deficiency and of the modifications expressed in this Decision, this Decision should be appended to the original Notice of Deficiency, thus to constitute the record of this discipline.

The part of the grievance that alleges violation of the labor agreement by removal of the grievant as Principal of Aquila is denied.

November 5, 2013



Thomas P. Gallagher, Arbitrator