

**ILLINOIS STATE BOARD OF EDUCATION**

In the matter of the charges preferred )  
against tenured teacher Stephen J. )  
Wright by the Board of Education of )  
Community High School District 99 )

Julius Menacker  
Hearing Officer

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**LEGAL ADVISOR**

**APPEARANCES**

**ON BEHALF OF DISTRICT 99**

J. Todd Faulkner  
Shelli Boyer  
Franczek Sullivan P.C.  
300 South Wacker Drive, Suite 3400  
Chicago, Illinois 60606

**ON BEHALF OF STEPHEN J. WRIGHT**

G. Harold Klumpner  
55 West Wacker Drive, Suite 801  
Chicago, Illinois 60601

**WITNESSES**

(in order of appearance)

**FOR DISTRICT 99**

Jenny Nowak, 2002 graduate of Downers Grove South H.S. (hereafter DGSHS)  
Craig Zeck, Principal, DGSHS  
Joanne Power, Secretary to the District 99 Board of Education  
Ashley Samsa, 2002 graduate of DGSHS  
Linda Samsa, mother of Ashley Samsa  
Michelle Purgatorio, 2002 graduate of DGSHS  
Mary Yurgil, 2002 graduate of DGSHS  
Joanna Hoglund, senior at DGSHS  
James Slouf, Science Department Chairperson, DGSHS  
Jenifer Adams, 2002 graduate of DGSHS  
David R. Eblen, Superintendent of District 99  
Terry McComb, DGSHS Athletic Director

**FOR RESPONDENT STEPHEN J. WRIGHT**

James Geocaris, Asst. Principal, DGSHS  
Milos Vjestica, Maintenance Engineer, DGSHS  
Richard Howard, Asst. Superintendent, DGSHS  
Stephen J. Wright, Respondent  
Adil Wali, 2002 DGSHS graduate  
Sara Kelly, Chiropractic physician, DGSHS graduate  
Chris Hauge, 2002 DGSHS graduate  
Suzanne Daniels, 2002 DGSHS graduate

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Legal Advisor

## PROCEDURAL BACKGROUND

The hearing officer received notification of appointment by letter from the Illinois State Board of Education dated May 14, 2002. Telephone calls ensued among the hearing officer and the attorneys for the parties. It was decided to begin the hearing on Monday, June 24, 2002 at Downers Grove South High School, 1436 Norfolk Avenue, Downers Grove. Hearing dates were June 24 through 28 and July 10 and 11. At respondent's request the hearing was open to the public. The parties submitting post-hearing briefs. The hearing was declared closed upon receipt of the District reply brief on October 8, 2002.

There was a need to employ a new court-reporting firm for the last two days of oral argument. Citations from transcripts for those last two days (July 10 and 11, 2002) are noted by the date along with the page number of the transcript.

## CHARGES AND SPECIFICATIONS

This hearing involves the dismissal for irremediable cause of Stephen J. Wright from his position as a tenured science teacher at Downers Grove South High School. The charges and specifications lodged against Wright are as follows:

### Charges:

1. **You have been insubordinate by violating directives given to you from the Superintendent verbally and in his May 29, 2001 memorandum and from the Board of Education in its June 19, 2001 Notice to Remedy.**

### Specifications

- A. In a May 29, 2001 memorandum, the Superintendent suspended you without pay for 10 days for communicating to students about disciplinary action taken against you on May 16, 2001 and directed you not to be insubordinate in the future. In his memorandum of May 16, 2001, the Superintendent directed you not to discuss with students your 10-day suspension for certain acts of poor judgment and misrepresentation. You did not contest either the May 16 or May 29 suspensions.
- B. As a result of your violation of the Superintendent's directive of May 16, 2001, you were issued a Notice to Remedy on June 19, 2001 by the Board of Education directing that:

- (1) You were not to communicate in any way with students about disciplinary actions taken against you

- (2) You were not to be insubordinate and were to comply with all directives given to you, whether orally or in writing, by the District's Administration and Board of Education.
- C. On February 6, 2002 the Superintendent issued a memorandum to you, informing you of his decision to suspend you for 10 days, and recommending that the Board of Education issue you a Notice to Remedy and consider your dismissal based on inappropriate sexual comments you made to students and your inappropriate touching of students.
- D. In his February 6, 2002 memorandum, the Superintendent directed that "you are not to communicate in any way with students about this disciplinary action." The Superintendent also directed you not to touch students.
- E. On February 8, 2002 you informed at least one student, in substance, that you had been disciplined again and that the discipline was upsetting you and causing you to contemplate ending your life. You further told her, in substance, to lie if she was questioned by the administration as to whether you had told her about the latest disciplinary action taken against you.
- F. On February 8, 2002 you hugged and kissed the cheek of the student referenced in paragraph E. above.
- G. The student referenced in paragraph E. was upset to the extent that she became ill and was absent from school due to the stress you placed on her by your actions described above.
- H. The foregoing actions on February 8, 2002 violated the Superintendent's directives of February 6, 2002 and, in turn, the June 19, 2001 Notice to Remedy issued to you by the Board of Education.
2. **You violated the Notice to Remedy issued to you by the Board of Education on May 31, 2001 requiring that you "conduct yourself in a manner which demonstrates good judgment and recognition of your role, authority, and responsibility as a teacher."**

Specifications:

- A. You made inappropriate comments of a sexual nature to your students and inappropriately touched your students. For example:
- 1) You solicited students to discuss personal and sexual topics. For example, you used the question of "why does semen taste salty?" as a topic your students should feel comfortable discussing with you.
  - 2) You questioned students about their sex lives.

- 3) You told a female student that her boyfriend only wanted to get "laid" by her.
- 4) You discussed "stimulation" and "French kissing" with your students as part of anatomy lessons.
- (5) You made sexual comments and used sexual innuendos in class, including telling students to "whip it out" when asking for homework, and "growling" when a comment was made that could be interpreted in a sexual manner.
- 6) You told sexual jokes to your students.
- 7) You inappropriately touched students including massaging their shoulders, and "fluffing" their hair.
- 8) You used students' bodies to demonstrate anatomy lessons, touching them in a manner that made them feel uncomfortable and embarrassed.
- 9) You checked students' necks for "hickey" and asked them whether they engaged in sexual activity over the weekend.
- 10) You asked students whether they "got any" over the weekend and informed students that you did not "get any" over the weekend.
- 11) You hugged and kissed a student on the cheek.

You were previously warned about conduct of this nature by your Assistant Principal, Ms. Nancy Griesheim, in a March 23, 2000 memorandum directing you not to place your hands on students or make comments with sexual overtones.

- B. You inappropriately informed students about your personal life and involved them in your personal problems.
- 1) You informed students about disciplinary action taken against you in May, 2002 and February 2002 although you were told not to.
  - 2) You have cried in front of your students on several occasions regarding your personal and work problems.
  - 3) You informed at least one student that you were contemplating ending your life.
  - 4) You cried in the presence of one of your students and told her that you were depressed when you were not with your students.
  - 5) You told a student, in substance, to lie if she was questioned by the administration as to whether you told her about the latest disciplinary action taken against you.
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- 6) Your actions and your comments upset at least one of your students to the extent that she became ill and was absent from school due to the stress you place on her.
- C. You were warned by your Principal, Dr. Craig Zeck, in your June 8, 2001 evaluation that further disciplinary action, including termination of your employment, could result if you failed to comply with directives from the administration and Board regarding your decision-making, professional judgment, honesty and insubordination.

**3. In the opinion of the Board of Education, the foregoing constitutes irremediable cause for your dismissal on the grounds of negligence and immorality, you are not qualified to teach in that you have failed to serve as the role model required by Section 27-12 of the Illinois School code, and the interests of the schools of the District require your dismissal.**

### **FINDINGS OF FACT**

Stephen J. Wright has been employed as a science teacher at Downers Grove South High School for 16 years, and was tenured for the past 14 years. The Board of Education of District 99 dismissed him at its meeting of March 13, 2002. The Board holds that dismissal for irremediable cause was appropriate because of (1) Wright's repeated insubordination regarding directives issued to him by the District 99 Board of Education and Superintendent, (2) Wright's failure to conduct himself with good judgment in regard to his role, authority and responsibility as a teacher, and (3) violation of Section 5/27-12 of the Illinois School Code, which requires that "Every public school teacher shall teach the pupils honesty, kindness, justice and moral courage for the purpose of lessening crime and raising the standard of good citizenship."

#### **The Charge of Insubordination**

The events leading to this charge began with two incidents during the 2000-01 school year. Wright supervised the intramural floor hockey program for which he received compensation in addition to his teaching salary. In March 2000 South High Athletic Director Terry McComb informed South High Principal Craig Zeck that he learned from a conversation with Mr. Wayne Groess, a retiree who was paid to assist Wright in floor hockey supervision, that student attendance had been sparse during the 2000-01 vacation period. This alerted McComb to the possibility that Wright had submitted grossly inflated hours of work for payment and similarly inflated student attendance to support continuing the program. Zeck asked McComb to investigate.

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McComb submitted documents (Bd. Exs. 5 & 28) indicating that the hours and student attendance submitted by Wright (Resp. Ex. 11) was far greater than those submitted by Groess, and the student numbers on Wright's submission was greater than the total number of students who enrolled for floor hockey. Wright testified that he believed that he submitted accurate information about the number of hours worked and the number of student participants at each session (Tr at 1636). However, the evidence submitted (Bd. Exs. 5 & 28) indicate that Wright submitted inaccurate time and student attendance data.

During the same general time period (March-April, 2001) Science Department Chairperson James Slouf reported to Zeck that two computers thought to be stolen from the South High loading dock were found in Wright's classroom. Wright testified that he had a need for a computer in his classroom, especially since the Anatomy and Physiology textbook (Resp. Ex. 4) came with a disk for computer use. He made an informal request for a computer to department chairperson Slouf, which was denied (Tr at 1571). Wright testified that he saw the computers on the loading dock and asked a loading dock employee if they were scheduled to be put in any particular place in the school. The worker had no such knowledge and hearing no objection from the employee, Wright took them to his room and had students install them. Wright was unable to produce the loading dock worker to verify his version of events. Zeck testified that both taking the computers without authorization and directing students to install them in a classroom were in violation of District policy.

Wright did not see this as a serious breach of his professional role. As a result of the floor hockey and computer incidents Superintendent David Eblen sent Wright a notice dated May 16, 2001 informing him that he was dismissed from his floor hockey supervisory position, his extra pay for that work was to be adjusted downward, and he was to be suspended without pay for ten days. Half of the suspension was to be served from May 21-25 and the balance from September 17-21, 2001, so as not to interfere with student final exams for the Spring, 2001 term. He was directed to exercise good judgment in his professional conduct. This document also directed Wright that "at no time are you to communicate in any way with students about this disciplinary action" (Bd. Ex. 17). Superintendent Eblen also made the same point orally to Wright.

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Wright violated the directive not to tell his students about this disciplinary action the same day that he received the directive (Tr at 235-37).

As a result, Wright was again suspended on May 29, 2001. On May 31, 2001 a Notice to Remedy was sent to Wright by the District 99 Board of Education stating, in part: "A repetition of this sort of conduct, or your failure to comply with the directives stated in Dr. Eblen's May 16, 2001 memorandum to you, will most likely result in further disciplinary action, including your dismissal . . . " (Bd. Ex. 18). Another Notice to Remedy (Bd. Ex. 21) was issued by the Board of Education on June 19, 2001 instructing him to "conduct yourself in a manner which demonstrates good judgment and recognition of your role, authority, and responsibility as a teacher." The Notice to Remedy also warned him of further disciplinary action and possible dismissal if Wright's behavior was not corrected.

Wright did not deny violating Superintendent Eblen's directive not to inform students of his disciplinary situation. Rather, he defended his behavior. His reason for this violation was "I did not want to lie to my students." This was the case because "when I was at the Air Force Academy, we had a creed that cadets will not lie . . ." (Tr at 1653). However, Wright was not asked to lie, but rather to avoid the specifics of his impending absence from school. It is important to note that *Wright made no objection to Eblen's directive either orally or in writing*, which would seem appropriate if Wright felt that the directive was inappropriate.

Wright did not enter a grievance regarding either of the two suspensions and Notices to Remedy, nor did Illinois Education Association representatives present at these meetings offer any protest regarding Wright's treatment. Wright received a "Satisfactory" grade on his biennial evaluation, completed on June 8, 2001. However, his overall performance assessment noted "serious concern . . . regarding the area of decision-making and professional judgment . . . [and] honesty and willingness to follow legitimate directives given by his supervisors." The assessment indicated that "failure to correct . . . decision-making, professional judgment, honesty and insubordination may still result in further disciplinary action, including termination of employment" (Resp Ex. 5 at 4).

The Charge that Wright Failed to Demonstrate  
Good Judgment and Responsibility as a Teacher

In March 2000 a freshman girl on the soccer team which Wright coached had complained that Wright "placed his hand on her shoulder and rubbed her shoulder" followed by touching the palm of her hand with what she said he called "their warm fuzzy." At the following practice Wright placed his hand her cheek and told her she was a "cutie patutie" and had cute red ears (Bd. Ex. 7). Subsequently the girl and her parent complained to school personnel resulting in Assistant Principal Griesheim and Science Department Chair McComb admonishing him in regard to his behavior. During the same month Wright was again admonished regarding comments made at the "Meet the Team" night. Wright made comments about another girls' team wearing provocative clothing at a car wash but his team would not do that. He also mentioned that he saved a girl's life by providing mouth to mouth resuscitation and "that was really nice." He also mentioned that his four-year-old daughter slept with him. A parent called to complain about these remarks and Wright was counseled to give more thought to his statements (Bd Ex 7). Wright did not deny any of these events.

The issue of improper sexually oriented conduct surfaced again in January 2002, concerning Wright's comments in class and other behaviors involving students deemed to be inappropriate because of their sexual nature. South High administrators became aware of this problem when two female students reported such incidents to Kara Egger, South High Dean of Students. An investigation was launched which produced additional incidents of sexually inappropriate behavior of Wright toward female students. Samples of student testimony at the hearing produced the following support for specifications of charges of inappropriate sexually oriented conduct against Wright:

- Jenny Nowak: Q: What did he mean by that? A: Like boyfriend-girlfriend breaking up. . . . He [Wright] asked me if I was sexually active. And there was a room full of kids. And I was just stunned, and I just said no, and I got up and walked out. . . . I was embarrassed. I wanted – I was angry, I wanted to slap him. I – I didn't know how to react. I was extremely upset and I felt really violated. I just – I felt horrible" (Tr. at 143-144). Q: Did Dr. Wright ever touch you in a way that made you feel



uncomfortable? A: [H]e just come up behind me and just kind of rub my shoulders.

Q: How did that make you feel? A: It was uncomfortable for me. . . .” (Tr at 155-56).

- Ashley Samsa: Q: What else did he [Wright] tell you? A: He thought about killing himself (Tr at 489). Q: Was he [Wright] crying? A: Yes (Tr at 490). Q: How often would he make sexual comments in class? A: Maybe twice a week. Q: Can you give us an example? A: He would ask if anybody got any over the weekend. Q: And what do you think he meant by that? A: If anyone had sex over the weekend. . . . I remember him doing Monday morning neck checks. Q: What is a neck check? A: Where he would check if anyone had “hickies.” (Tr at 502-6). Q: Did he [Wright] hug you or kiss you at all during this conversation? A: Yeah. Q: Which did he do? A: Both. . . . He hugged me and kissed me on the cheek (Tr at 493). Q: Did Dr. Wright ever make sexual comments to you your senior year? A: He would ask us what we did over the weekend, and – I would tell him, you know, like once I told him that we baked cookies and he said “oh, is that what they call it now?” Q: What did you take that . . . to mean? A: Sex. Q: What did you say in response to that? A: I said, no, we actually made cookies (Tr at 511).
- Michelle Purgatorio: Q: Can you give us an example, Michelle? A: The first day of school he told us about how people have asked him or how a girl has asked him what semen has or why semen tastes like it does. Q: How did the class respond to the semen question? A: Everybody looked at each other, and the guys, of course, they laughed a little bit, and the girls kind of just gave each other these nervous looks. . . . I don’t think anybody had ever experienced like a situation where the teacher and the class is talking about something like that. . . . (Tr at 706-07). Q: Michelle, you said the topic of sex came up. Do you remember how that came up? A: One day he asked about if I was having sex with my boyfriend. . . . And he was asking if I was the only one that was getting laid by him or if he was the only one that was worried about getting laid by me or something with the words ‘getting laid’” (Tr at 734-735). Q: [C]an you tell us what happened? A: We were dissecting and I just needed a tweezer . . . and he said “what is that for, your boyfriend’s thing?” Q: And what do you think he meant by that? A: I think he meant my boyfriend’s penis (Tr at 714). A: Do you recall a discussion with respect to a soccer ball? A: When he [Wright] was a soccer

coach, he used to sit on his soccer balls . . . and he wouldn't be able to stand up because he would get . . . an erection (Tr at 717).

- Mary Yurgil: Q: Mary . . . did Dr. Wright ever massage your shoulders? A: Yes. . . . It would be every day . . . . It would be either both hands or just one hand on my shoulders. Kind of . . . like . . . really giving a massage, kind of like a boyfriend would touch . . . Q: How long would it last for? A: Like five, ten, 15 seconds. . . . It made me feel really uncomfortable . . . really weird. Q: Do you recall a conversation with Dr. Wright and him asking about your sexual activity? A: He [Wright] said- are you sleeping around with them [boys Mary and a friend were discussing]. Q: Do you remember Mr. Wright asking you where you bought your bras? A: Yes (Tr. at 832-43).
- Joanna Hoglund: Q: What did he [Wright] say [in class]? A: He said "Let's name as many names as we can for oral sex." Q: What names do you remember he [Wright] said in class? A: "Blow job," "BJ," I don't really remember. Q: Can you tell us what happened? A: I was wearing a skirt and he just made like a sexual growl at me (Tr at 9089-915).
- Jenifer Adams: Q: Why did you want to change him [Wright], because you had him as freshman-sophomore coach? A: As a freshman he like used to rub our legs and made us feel very uncomfortable, and I didn't want to have to go through that uncomfortable stuff again. Q: And did you ever tell him that it made you feel uncomfortable? A: Yes I did. Q: Did he start doing that again? A: Yes, toward the end of the season he did. Q: Do you recall Dr. Wright using the phrase or question "Why does semen taste salty?" A: Yes. Q: Do you remember how you felt when he asked the question? A: I was disgusted. Q: And what would he [Wright] say? A: He just asked us how our weekend went and if anyone got any action over the weekend. Q: Got any action? A: Yes, like if they had sex or stuff like that, sexual matters (Tr at 984-86; 991-93).

Wright testified that he used the term *spoooge* "in class to denote any event whereby . . . blood, puss, whatever is expelled from some part of the body . . ." (7/10 Tr at 106). Wright testified that "I made up the word back in the late 80s" (7/10Tr at 88), but the Board contended that it was a slang term known by Wright and students to

describe ejaculation. The Board supported this claim in its post-hearing brief by stating that *spooge* is found in R.A Spears, Slang and Euphemism, 3<sup>rd</sup> ed., 2001 and is defined as “ejaculation.” The Spears text cited by the Board could not be located. However, while searching for it the term *spooge* was found in another slang dictionary. In Jonathan Green, The Cassell Dictionary of Slang, 1998, p. 1124 *spooge* is defined as “semen,” along with a notation that this slang term emerged in the 1990s.

Wright admitted asking his class the question: “Why does semen taste salty?” He felt this was appropriate since he claimed that a female student asked that question of her professor at Iowa State University and he used it to prepare students for what to expect in college classes (Tr at 1616-18). Wright viewed this as permissible under the principle of academic freedom, which was specifically granted in the board-union contract (Tr at 1615-16).

As a result of the charge of insubordination and the information regarding inappropriate conduct of a sexual nature, and conferences, memoranda, and Notices to Remedy regarding Wright’s behavior (Bd. Exs. 7, 10, 11, 16, 17, 18, 19, 20, 21, 22) Wright received a February 6, 2002 memorandum from Superintendent Eblen (Bd Ex 23). This document informed Wright of a third unpaid ten-day suspension, and Eblen’s intention to recommend to the Board that he be issued a third Notice to Remedy and that the Board consider Wright’s dismissal. The memo also warned Wright to avoid touching students or having conversations with them of a personal or sexual nature and to “conduct yourself in a professional manner and use good judgment. . . .” Wright was informed that he had the right to appear at the February 25, 2002 Board meeting to defend himself against dismissal. Wright appeared at that Board meeting with his attorney, but both left abruptly. The third suspension was approved.

Prior to February 25, 2002 Principal Zeck was contacted by the mother of student Ashley Samsa (Bd Ex 9) who reported that Ashley was distraught because Wright had contacted her about his third suspension and asked her to lie for him if she was called to testify about his contact with her regarding his possible dismissal (Tr at 284 *et. seq.*). This information led to the Superintendent’s recommendation to the Board that Wright be suspended until the Board considered his dismissal at a special meeting scheduled for March 13, 2002. Wright and his attorney appeared at that Board meeting,

and participated in the informal hearing held to allow Wright to defend against his dismissal (Resp. Ex. 6).

Wright's Claims of School Administration Animus Toward Him

Wright presented two matters to support his claim of District 99 administration animus toward him. The first occurred in October 1999 when Wright submitted evidence of completing a Ph.D. in Education from Southwest University of New Orleans, Louisiana, which is a non-accredited institution. Wright was not given credit on the District 99 salary schedule even though two others had previously received salary credit. The denial was based on the Downers Grove Education Association-Board of Education contract in effect for the 1999-2002 period

The new contract provided that salary credit would only be allowed for work completed at accredited institutions (Bd Ex 4, p. 42). Wright had begun his work toward his Ph.D. under a previous contract that did not contain that provision and felt that because of that, he should receive such credit. Wright claims that this was evidence of Board and administration animus because of his service on the contract negotiating team. Uncontradicted testimony indicated that there was no appeal or union support for Wright's objection to the denial of salary credit for his Ph.D. or in regard to any other issues surrounding this case. Assistant Superintendent Howard testified that Wright had a minimal role on the negotiating team and made no proposals (Tr at 1537).

The second claim of District 99 animus toward Wright was that the Anatomy and Physiology course he taught was downgraded from a weighted course carrying enhanced weighting for student grade point averages to a course carrying normal weight. Testimony by Science Department Chair James Slouf held that the decision to change the course weighting began in Spring 1999 and went into effect in October 2002. The change was related to the larger issue of reorganization of courses in their horizontal and vertical streams that made weighting the Anatomy and Physiology course impractical (Tr at 964-74). Wright was not the only faculty member to teach the Anatomy and Physiology course.

Wright did not produce evidence through documents or witnesses to support his claims that South High and District administrators were unreasonably opposed to him and wished to dismiss him for that reason.

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### Wright's Witnesses to Dispute Board Claims of Sexually Inappropriate Conduct

Wright countered the charge of inappropriate sexual conduct through the testimony of recent South High graduates testifying on his behalf. Samples of relevant responses from the three students asked about Wright's sexually oriented behavior countering the testimony cited above by students called by the Board are indicated below:

- Adil Wali: Q: Did you ever see Dr. Wright do anything you would consider sexually inappropriate in class? A: No. Q: Did you find that Dr. Wright used any vulgarity in class? A: No (7/10 Tr at 252).
  - Chris Hauge: This student described one of the 15 minute weekly time periods devoted to various topics called "Civility Tuesday." One "Civility Tuesday" session was to be devoted to the topic of sexual harassment. Hauge's teacher talked about another teacher guilty of sexual harassment, without naming that teacher. However, Hauge testified that she was referring to Wright. Q: But she never mentioned him by name. But was it common knowledge among all of the students? A: Everyone knew who she was talking about. Q: How would you advise the Court that the subject matter [human sexuality in Wright's class] was discussed? A: Very professionally. When using slang terminology for different reproductive parts, he would correct the students and have them use the correct words just so that it would remain, I guess, more professional (7/10 Tr at 279 & 282-83).
  - Suzanne Daniels: Q: Would it be accurate, Suzanne, to say that there were some students in the class that were somewhat uncomfortable with the subject matter of the course? A: Some of the questions that other students were asking may have made some people uncomfortable. But, I personally never was uncomfortable (7/11 Tr at 15).
  - Dr. Sara Kelly, Chiropractic Physician, whom Wright taught in a class in 1990-91: Q: How would you rate Dr. Wright on the spectrum of teachers . . . ? A: I would rate him excellent, on the top of my list. He was outstanding. He was the best teacher I've even had in my entire educational experience without question (7/10 Tr at 263).
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Summary Analysis of the Charge Regarding Wright's Failure to Demonstrate Good Judgment and Responsibility as a Teacher

The May 31, 2001 Notice to Remedy instructed Wright to "conduct yourself in a manner which demonstrates good judgment and recognition of your role, authority, and responsibility as a teacher." Subsequent to that Notice Wright admitted asking "why does semen taste salty," and did not deny asking student Purgatorio about "getting laid," asking students for synonyms for oral sex, stroking the shoulders of female students, hugging and kissing student Ashley Samsa on the cheek and crying before her and talking about wanting "to end it all" (Tr at 15899) which she took to mean Wright was considering suicide. These and similar indiscretions detailed above and found in the transcript were not viewed by Wright as inappropriate.

The testimony of students called by the Board are the basis for the charge of immorality and poor judgment regarding a teacher's authority, role, and responsibility. Additionally, there is the matter of Wright's use of the term *spooge*, which is defined as a slang term developed in the 1990s meaning semen in a 1998 slang dictionary, cited above. Wright chose that term when describing material expelled from the body. His claim that he coined the term sometime in the 1980s is not credible.

Former students testifying for Wright affirmed that there was nothing in his classroom behavior, or in any other way that offended them or caused them to alter their opinion that Wright was an excellent teacher. Dr. Kelly identified Wright as the very best teacher she ever had (Tr at 263). There has been no evidence presented by the Board that Wright was not a good teacher, nor is his dismissal related to his teaching ability. Rather, dismissal is based on insubordination, violating his role, authority and responsibility as a teacher, and exhibiting judgment that was so poor as to be considered immoral. The students testifying on Wright's behalf were not questioned about the insubordination charge, and supported Wright as not being immoral. However, several students testified to having been upset by Wright's behavior regarding sexual matters. That behavior can be judged immoral, even if some students demur because they were not offended. Further, such conduct described by the students called to testify by the Board, and not disputed by Wright, demonstrates a stunning lack of judgment and understanding of a teacher's role and responsibility to students, parents and the school.

The students testifying for Wright did not have negative personal reactions, but all of the students testifying for the Board had disturbing experiences. It is not required that every student find sexually explicit or suggestive language upsetting in order to judge such conduct to be improper.

Violation of Section 27-12 of the Illinois School Code

105 ILCS 5/27-12 states: "Honesty, kindness, justice and moral courage. Every public school teacher shall teach the pupils honesty, kindness, justice and moral courage for the purpose of lessening crime and raising the standard of good citizenship." The Board did not trouble itself to detail its argument about how Wright was in violation of this section of the Illinois School Code. The implication is that asking students Samsa (Tr at 492-93) and Purgatorio (Tr at 751-53) to lie on his behalf violated the honesty and morality requirements for teachers implicit in this law.

**FINDINGS OF LAW**

Wright argues that this case is analogous to *Board of Round Lake District 116 v. State Board of Education* 292 Ill. App. 3d 101 (1977). In that case the Illinois Appellate Court found dismissal of a tenured teacher for insubordination to be unwarranted. The Court did so for two reasons. First, the rules that the teacher was charged with violating were confusing. Most importantly, the Board failed to provide a pretermination hearing in which the teacher was allowed to present information to guard against a mistaken decision (citing *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 1985). Wright claims that he was denied a proper pretermination hearing as required by *Loudermill*.

A review of the transcript of the March 13, 2001 special meeting of the District 99 Board of Education (Resp. Ex. 6) indicates that Wright did have a pretermination hearing that satisfied the requirements of *Loudermill*. All of the relevant memoranda and Notices to Remedy were available to Board members and Board member Duggan recited the charges and specifications and Wright presented student witnesses in his behalf (Resp. Ex. 6 at 29-31). *Loudermill* requires the pretermination hearing be no more than is needed to guard against a mistaken decision. Wright's pretermination hearing met that requirement. The *Round Lake* case cited by Wright reiterates the position taken by the *Loudermill* court. The Illinois court held that: "a 'full and thorough' hearing is not

required. However, an informal termination opportunity to be heard is required, and it only needs to be extensive enough to guard against a mistaken decision" (*Round Lake, supra*, at 115-16). The transcript of the March 13, 2002 special Board meeting (Resp. Ex. 6) is evidence that Wright was afforded the due process required by the *Loudermill* and *Round Lake* decisions.

Wright notes that insubordination "imports a willful or intentional disregard of the lawful and reasonable instructions of the employer" (*Black's Law Dictionary* 801, 6<sup>th</sup> ed., 1990). Wright properly argues that "the instructions, or rule, of the employer must first be reasonable" (Resp. Brief at 4). Wright further properly points out that "warnings or disciplinary measures contemplated for violations of the rule must be both explicit and specific to the conduct for which the employee would be reprimanded" (citing *Garner v. Employment Security*, 269 Ill. App. 3d 370, 375-76, 1995) (Resp. Brief at 5).

If Wright deemed the instruction to not divulge to students the reasons for his discipline unreasonable, he should have said so to the Superintendent. He did not do so, but went on to violate it twice. Both the May 31, 2001 (Bd. Ex 18) and June 19, 2001 (Bd. Ex.21) Notices to Remedy issued to Wright reference memoranda sent to him clearly and explicitly instructing him not to tell students about the disciplinary action taken against him. The May 16 memorandum instructed him that "at no time are you to communicate in any way with students about this disciplinary action" (Bd. Ex. 17). The May 29 memorandum directed "You are not to communicate in any way with students about this disciplinary action or the disciplinary action taken against you on May 16, 2001" (Bd. Ex17). The May 29 memorandum also instructed Wright that "you are not to be insubordinate. . . ." These instructions are clear and explicit. It is a reasonable position to take that sharing confidences with students about teacher-administrator disputes undermines school discipline and appropriate student respect for teachers and administrators.

In our case there is a distinctly different fact pattern from *Round Lake v. State Board*. In the first instance, Wright was not confronted by vague and confused rules as was the teacher in that case. The administrative memoranda related to Notices to Remedy sent to Wright about not discussing the reasons for his discipline and suspensions are clear and explicit regarding what was required of him.



We now turn to the explicitness and reasonableness of administrative directives regarding Wright's sexually suggestive behavior. The first such evidence that Wright received instruction about sexually suggestive behavior is found in a memorandum sent to Wright on March 23, 2000 by Nancy Griesheim, a South High administrator (Bd. Ex 7). A salient portion of that memorandum which reviewed a meeting with Wright said "Steve . . . understands that in the future he would not place his hands on students or make these comments to students. . . . Steve understands how his statements could be taken the wrong way and will give more thought to his statements in the future." The directive not to place hands on students is both explicit and clear, and was violated both by massaging the shoulders of female students and hugging and kissing Ashley Samsa. While "give more thought to his statements" is not explicit, given the sexual nature of the context in which the directive was made, it certainly is reasonable to believe that a person of normal intelligence would take it to forbid massaging female students' shoulders, asking girls if they were sexually active, soliciting students to shout out synonyms for oral sex, or introducing in class such questions as "why does semen taste salty?"

Among the nine instructions found in a February 6, 2002 memorandum (Bd. Ex 10, #4) from Superintendent Eblen to Wright are the following:

"You are to conduct yourself in a professional manner and use good judgment when speaking to and interacting with students. . . . You are not to solicit sexual or other personal conversations with your students."

Testimony by both students Ashley Samsa (Tr at 492-93) and Michelle Purgatorio (Tr at 751-53) indicate that Wright had personal conversations with them. Samsa testified that on February 8, 2002, two days after receiving that memo, Wright asked her to lie for him if called to testify at a hearing and "told me he was very upset because of this and he told me that he thought about killing himself" (Tr at 489-90). Purgatorio's testimony included the information that on February 25, 2002 Wright "brought up this specific point about making the comments about my boyfriend getting laid . . . and that I was supposed to promise him to never say anything about this because he could get in more trouble. . . ." (Tr at 752).

Wright did not deny that either of these conversations took place. A certified teacher should understand that these conversations with students Samsa and Purgatorio violated

Superintendent Eblen's directives to avoid conversations with students that were highly personal and inappropriate. Further, a teacher should not need to be warned not to encourage students to lie for him.

Wright further argues (Resp. Brief at 4) that the warnings directed to Wright were unreasonable because they failed to provide "guidelines that are or should be known by the employee" (citing *Caterpillar, Inc. v. Fehrenbacher*, 286 Ill. App. 3d 614, 622-23, 1997). A teacher should know, without being provided with "guidelines," that he should avoid massaging the shoulders of female students, hugging and kissing them, asking them if they are sexually active, being "laid," "why semen tastes salty" or soliciting students to call out synonyms for oral sex in class, or lie for him, to name but a few of the more egregious actions of Wright.

Finally, Wright argues that "both prior notices to remedy were not followed by a period of remediation and were also wholly unrelated in their subjects (*sic*) matter to the charges and bill of particulars that was eventually issued" (Resp. Brief at 4). A period of remediation is not required when a tenured teacher is dismissed for irremediable cause (*Gilliland v. Board of District 622*, 67 Ill. 2d 143, 1977). *Gilliland* states, in part, that "the test in determining whether a cause of dismissal is irremediable is whether damage has been done to the students, faculty or school, and whether the conduct resulting in that damage could have been corrected had the teacher's superiors warned her. . . . Uncorrected causes for dismissal which originally were remediable in nature can become irremediable if continued over a long period of time"(at 153).

*Board of Education of Chicago v. Harris* (578 N.E.2d 1244, 1991) elaborates on the *Gilliland* decision as follows: "[S]ubsequent cases have seen at least two refinements of the *Gilliland*-derived irremediability test. First, it has been held that individual acts, separately remediable, may be irremediable when considered in totality; they must have long continued, and a court may consider whether the cause for dismissal is itself irremediable and whether the teacher demonstrated willingness to correct the conduct" (at 602).

## DECISION

Testimony and documents discussed above provide a preponderance of evidence that the lewd language and inappropriate touching behavior of Wright toward female students has caused harm to students, faculty and school. The testimony of female students called by the Board provided evidence of their embarrassment and outrage caused by Wright's behavior, and Ashley Samsa's mother testified to emotional problems experienced by her daughter (Tr. at 613-15).

Wright's misbehavior does not require a warning to prevent it. A teacher should not have to be warned against improper touching of female students, although he was given such warnings in the year 2000 and thereafter. Asking students for synonyms for oral sex, asking them why semen tastes salty, and the other confirmed improprieties of Wright are clearly beyond common standards of decency and professional behavior for high school teachers, but even here he received warnings. Wright's excuse that his text, and by extension the Physiology and Anatomy course he taught, contained a unit on reproduction is not a sufficient excuse for his behavior. The text (Resp. Ex. 4) does not come close to using such language.

The United States Supreme Court addressed the matter of the extent to which improper sexually oriented talk could occur in a public school. In *Bethel School District No. 403 v. Fraser* (106 S.Ct. 3159, 1986) the Court considered the right of a student to make a speech to the student body that contained "pervasive sexual innuendo." In holding that there was no such right, the Court offered the following judgments about the role of speech in the public school:

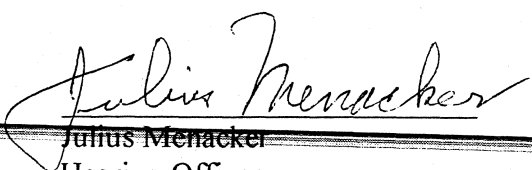
Public education . . . must inculcate the habits and manners of civility . . . . Surely it is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms. . . . Consciously or otherwise, *teachers . . . demonstrate the appropriate form of civil discourse . . . by their conduct and deportment in and out of class. Inescapably, like parents, they are role models. The schools, as instruments of the state, may determine that the essential lessons of civil mature conduct cannot be conveyed in a school that tolerates lewd, indecent or offensive speech and conduct* [emphasis added]. . . . (at 3160-66).

The District 99 Board of Education has satisfied its burden of showing a preponderance of evidence that because of Wright's "lewd, indecent or offensive speech

and conduct" (*Bethel v. Fraser* at 3166) he has failed to conduct himself "in a manner which demonstrates good judgment and recognition of your role, authority, and responsibility as a teacher." The Board has also satisfied its burden to prove that Wright did not serve in the role contemplated by Section 27-12 of the Illinois School code, and that his behavior in the context of his role as a teacher of teenage students was immoral. "Immorality is behavior that is inimical to the public welfare according to the standards of society" (B.A. Braun, *Illinois School Law Survey*, 7<sup>th</sup> ed., Illinois Association of School Boards, 2002, at 18:140, p. 399). The language and behavior exhibited by Wright toward female students that have been reviewed was inimical to the welfare of the public school and students in which Wright taught.

Wright did not object when first ordered to follow the Superintendent's recommendation not to reveal his suspension to students but nevertheless violated it twice, clearly indicating that he was not willing to correct this behavior. Wright chose not to discuss with the Superintendent his feelings about academic freedom or the Air Force Academy code that forbade lying. Wright was not asked to lie, but rather not to reveal his disciplinary infraction and suspension, as by citing personal reasons for absence. Wright's attendance at the Air Force Academy from June 1980 to March 1981 (Tr at 1553-55), did not prevent him from lying regarding the hours of supervision and number of students in attendance at floor hockey reviewed above. Nor did it prevent him from asking students Samsa (Tr at 492-93) and Purgatorio (Tr at 751-53)) to lie for him. When balancing the interests of insulating students, staff and other members of the school community from the distractions and confusion of being privy to the teacher-administration disputes and the expectation of teacher truthfulness, the balance weighs against Wright in regard to the charges of insubordination and immorality.

Wright gave no indication of willingness to correct the conduct for which he was dismissed by the District 99 Board of Education. The decision of the District 99 Board of Education to dismiss Stephen J. Wright for irremediable cause is AFFIRMED.

  
Julius Menacker  
Hearing Officer

  
Date