

throwing furniture. AP Porter reported that Student A was *not* throwing furniture as Mr. Gainor improperly informed the parent (Admin. Exh. 7, Attach. 3-4). Student A became upset and started kicking desks. Mr Gainor used his right hand to hold down Student's A's left hip bone and his left hand on Student A's head on the ground.

AP Porter directed Mr. Gainor to remove his hands from Student A's head at least three times - each time with more intensity. Mr. Gainor told AP Porter that "it was fine" and asked her to get students out of the classroom. Nearly three minutes passed with Mr. Gainor holding Student A to the ground. Meanwhile, other administrators arrived at the classroom, including Principal Victoria Echols ("Principal Echols") and Assistant Principal Chabil Glaze ("AP Glaze). Principal Echols witnessed Mr. Gainor sitting on the student's side on the floor in the classroom. (Admin. Exh. 7, Attach. 3-2). AP Porter and AP Glaze directed the other students to leave the classroom, and they did. Student A returned to his chair in the classroom. Mr. Gainor noticed that sometime during the interaction with Student A, Mr. Gainor had scraped his hand. Mr. Gainor left to seek medical assistance from the school nurse.

Principal Echols submitted a TIPS report to document the situation and report to necessary district leadership. (Admin. Exh. 7, Attach. 3-2). Quickly after the incident, Principal Echols also contacted Mr. Jason Webster, Director of Employee Relations, to notify him of what had occurred and inquire as to next steps. Mr. Gainor timely submitted a Risk Management form through Cognito used to report injury and illness. (Admin. Exh. 7, Attach. 3-1). Mr. Gainor left work. Risk Management leadership sent Mr. Gainor to seek medical attention based upon the report of injury, and Mr. Gainor was requested to undergo a post-accident drug screening. Pursuant to procedures for post-accident drug screening, Mr. Gainor was automatically placed on paid administrative leave pending drug screening results, which was resulted on or around

February 27, 2023 as negative. Mr. Webster contacted Mr. Gainor to schedule a meeting to place him on administrative leave for further investigation of the February 16, 2023 incident.

On February 28 2023, Mr. Webster issued Mr. Gainor a letter placing him on Administrative Leave with pending investigation of the February 16, 2023 incident pursuant to OKCPS Board Policy G-34 staff conduct (Admin. Exh. 12 for policy), specifically, Item 6, concern for and attention to employee and district legal responsibility for the safety, health, and welfare of students (Admin. Exh. 5).

Mr. Webster contacted Mr. Joshua Landers, District Investigator, to initiate an investigation of the incident dated February 16, 2023. On March 30, 2023, Mr. Landers interviewed Mr. Gainor via telephone. During the interview, Mr. Gainor stated that he “put his arms around [Student A]” and “laid him on the floor and placed him on his side” because Student A threw and struck him with a chair and he ran into AP Porter, causing her to drop her keys. Mr. Landers spoke to AP Porter about the incident and received her written statements. She states that Student A did not throw a chair at Mr. Gainor and he didn't run into her. Mr. Gainor claimed that he has requested MANDT training, but has been denied training by the Webster Administrators.

Mr. Landers spoke with Principal Echols regarding Mr. Gainor’s MANDT training. Principal Echols stated that Mr. Gainor was scheduled to attend MANDT training, but he never attended. During the investigation of Mr. Gainor’s classroom where the incident occurred, Mr. Landers discovered that Mr. Gainor had in plain view and easy access unsecured FERPA-protected student records in his classroom, which were illegally made available to other students. When questioned about the safekeeping of student records, Mr. Gainor stated that he did not keep confidential student documents in his classroom and that he did not have access to a

locking cabinet for confidential documents even if he wanted to do so. Mr. Landers received written statements from a student stating that they took the student records from Mr. Gainor's desk. This student stated that the documents were on top of a "book thing" where the student was easily able to grab and take them (Admin. Exh. 7, Attach. 3-3). When Mr. Landers confronted Mr. Gainor with this information, he stated the students obtained the student records by hacking into his EdPlan. In order for students to hack into Mr. Gainor's EdPlan account, they would need Mr. Gainor's login credentials and password. Student records obtained from the student were in paper format and not in electronic format (Admin. Exh. 7, Attachment 3-3). As part of his investigation, Mr. Landers spoke with Principal Echols about student records and she verified that she spoke to the Special Education department at the beginning of the school year and offered lockable cabinets to all teachers (Admin. Exh. 10). Mr. Gainor never requested a lockable cabinet from the Webster Administration.

Mr. Landers completed his investigation report on or around April 3, 2023 (Admin. Exh. 7) and submitted it to Mr. Webster. On April 13, 2023, Mr. Jason Webster recommended on behalf of Human Resources that Mr. Gainor be terminated from employment based upon violations of G-34: Staff Conduct and G-39: Termination of Employment (Admin. Exh. 4). Superintendent McDaniel mailed a Notice of Recommendation for Termination and Right to Board Hearing to Mr. Gainor notifying him of his recommendation and due process hearing procedures (Admin. Exh. 2).

As a probationary teacher, Mr. Gainor can be terminated pursuant to Oklahoma State Statute Title 70 § 6-101.25 which provides an automatic due process hearing before the local board of education following a recommendation for termination of the Superintendent for cause.

Cause for termination of certain OKCPS employees, including probationary teachers, is provided for in OKCPS Board Policy G-39 on Termination of Employment. The Administration recommends termination of Mr. Gainor's employment for his actions, in violation of the following law and policies:

1. Board Policy G-34, **STAFF CONDUCT**;

- a. *Section 6*: Concern for and attention to employee and district legal responsibility for the safety, health, and welfare of students and employees, including the need to ensure that students are under supervision at all times;
- b. *Section 8*: Observance of confidentiality requirements with respect to student and personnel information pursuant to applicable to federal and state law. Externally communicating any confidential information or information related to the district not intended for public dissemination is always forbidden and may be grounds for termination and legal action. Public information will be released through the superintendent or designee;
- c. *Section 11*: Treat students, other employees, parents, board members, patrons, other educators, and official representatives of various public agencies with respect; and
- d. *Section 13*: Maintain a personal standard of conduct and professional appearance, free from impropriety, that is above reproach and which shall contribute to high morale and respect for the educational profession and the OKCPS system and establish proper role models for students.

2. Board Policy G-39, **TERMINATION OF EMPLOYMENT**.

- a. *Section 1*: Willful neglect of duty (knowingly failing or refusing to carry out the required functions of the position);
- b. *Section 3*: Mental or physical abuse to a child;
- c. *Section 4*: Pushing, pulling, grabbing, or otherwise inappropriately touching students;
- d. *Section 11*: Moral turpitude;
- e. *Section 17*: Willful or persistent violations of law, board policies, administrative regulations, or regulations of any outside agency to which the district is subject;

f. *Section 32*: Whenever it is in the best interest of the school district.

Respectfully Submitted,

Ana Deisy Escalera

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CERTIFICATE OF MAILING

This is to certify that on the 25 day of May, 2023 a true and correct copy of the above and foregoing document was mailed and emailed, to the following parties:

Stephen Gainor
Probationary Teacher

Via Email: [REDACTED]

Jeff Bryant, Hearing Officer

Via Email: [REDACTED]

Mr. Craig Cates, Board Clerk

Via E-mail: [REDACTED]

Ana Deisy Escalera

Ana 'Deisy' Escalera
Staff Attorney