

PROCEEDINGS UNDER SECTION 3319.16, OHIO REVISED CODE

In Re:

Anthony L. Gretick, Referee

Sandra Meeks Speller, Employee

**DECISION AND  
RECOMMENDATION**

and

Toledo Public Schools District,  
Employer

The matter to be considered herein is the proceeding initiated by the Administration of the Toledo Public Schools (Administration) which has recommended to the Toledo Public Schools Board of Education (Board) that the contract of a school administrator, Sandra Meeks Speller (Ms. Speller) be terminated pursuant to procedures established by the Ohio legislature in Section 3319.16, et seq., Ohio Revised Code. The statutory standard for termination to be applied is "good and just cause", with that burden being on the proponents, the Administration. Appearances herein are Roman Arce, Esquire, for the Administration, and Dennis D. Grant, Esquire, for Ms. Speller.

The administrative process leading to the hearing before a referee was initiated by the Administration by setting a Continuing Investigative Hearing, the so-called "internal hearing for the record" which was held on June 14, 22, and 29, 2012, before hearing officer Carol A. Thomas of the Human Resources Department. A decision was rendered on July 30, 2012, that the grounds complained of were proven to Ms. Thomas (with no measure of the burden of proof identified) resulting in her recommendation that Ms. Speller's employment be terminated immediately.

After receipt of the Thomas decision, Ms. Speller invoked her statutory right to request a hearing before the Board. The Board, thereupon, invoked its statutory right to request that the matter be referred to a Referee to be appointed by the Ohio Department of Education. (ODE) That request resulted in an agreement by the parties to have the undersigned appointed as the Referee, which resulted in an official appointment by the ODE.

The referred proceedings (the Referee's hearing) were held in Toledo on November, 12, 13, 14, 15, 16 and 21, 2012. A complete transcript was made of the hearing and delivered to the Referee and counsel, and counsel have fully briefed the matter.

### **I. Introduction**

Although counsel for the Administration urges the Referee to consider only those events which occurred in the school year 2009-2010, 2010-2011 and 2011-2012, the Referee finds that such a restriction is not appropriate when considering the import of events complained of in those years against the proposed termination of employment of a 16 year career employee of the Board. Further, the application of the "good and just" standard certainly must also be measured against something, and Ms. Speller's career, *in toto*, is that something.

However, the Administration is limited in its complaint to those actions by Ms. Speller appropriately alleged which Ms. Thomas found to be the basis of her recommendation of termination, and those will be addressed as developed on the record.

## II. General Findings of Fact

1. Ms. Speller is the holder of a Bachelor of Arts degree in communication; a Masters of education in secondary education – mathematics with a concentration in curriculum and teaching; and she is a doctoral candidate in education with specialties in curriculum and instruction.
2. Ms. Speller has been employed by the Toledo Public Schools as a mathematics teacher (August 1998 – June 2003 at Scott High School); as assistant principal of student activities (August 2003 – June 2007 at Scott High School); and as an assistant principal from August 2007 up to the time of the recommended termination. She has also been a part-time instructor in the College of Education at the University of Toledo from August 2008 to the present.
3. It is uncontroverted that Ms. Speller's performance at Scott High School as a mathematics teacher in the school years 1998-99, 99-2000, 00-01, 01-02, and 02-03, and as an assistant principal at Scott and for student activities in the school years 2003-04, 04-05, 05-06 and 06-07 was at such a level of competence to lead to her assignment as an assistant principal beginning in August 2008 at DeVaux Junior High School, when the Scott position was abolished. Her principal at DeVaux was Mr. James Gault. Mr. Gault was subsequently elevated to the job of Assistant Superintendent. At this time, a new building was under construction for DeVaux, and Ms. Speller assumed the duties of an acting principal at the old school and, also sheperded the construction of the new, working in both buildings. Chad Henderly was named principal at DeVaux at the start of the 2009-2010 school year. DeVcaux became an elementary school at that time. After Mr. Henderly became principal, Ms. Speller's evaluations began to decline. During this time, Ms. Speller was the only female administrator and the only African-American administrator at DeVaux.
4. In Mr. Henderly's testimony, he confirmed that the "marginal" marks for Ms. Speller, at least in her first assessment of 9/14/2009, were meant "to encourage Ms. Speller" to improve her job performance.
5. On July 11, 2011, Ms. Speller transferred to Spring Elementary where she became Assistant Principal to Victoria Dipman.
6. Mr. Henderly did not recall any contacts with Ms. Dipman to discuss Ms. Speller.
7. By October, 2011, the relationship between Principal Dipman and Ms. Speller had deteriorated, and action was taken to provide mentoring to

Ms. Speller, and Dr. Robin Wheatley was assigned to perform that function.

8. Despite an improvement in Ms. Speller's performance from the November, 2011 to March, 2012 time period per Ms. Dipman, Dr. Wheatley, in mid-April, stepped down as Ms. Speller's peer mentor.
9. On April 23, 2012, the District's Superintendent wrote to the state department of education to request that it add a grade band to Ms. Speller's 5 year Professional License indicating "Principal Grades PK-6 and advance her Alternative Principal License Grades PK-6 to her existing license." On May 23, 2012 the Board's Treasurer signed a new three year employment contract for Ms. Speller which Ms. Speller executed on May 24, 2012.
10. On May 29, 2012, the District sent Ms. Speller written notice that she has "a reasonable assurance of returning to work in the 2012-13 school year, after the summer recess period unless you are otherwise notified specifically in writing by this District."

### **III. Specific Findings of Fact**

#### **DeVeaux**

1. On August 15, 2007, Ms. Speller was appointed Assistant Principal at DeVeaux Junior High. James E. Gault was the Principal. In January, 2008, Ms. Speller received an out-of-cycle "displacement transfer" evaluation of her performance in which Mr. Gault rated her as exceeding expectation in two categories and meeting them in all others. His recommendation was that she be "encouraged to seek promotion."
2. Mr. Gault subsequently was promoted to an Assistant Superintendent position. Prior to leaving, he conducted Ms. Speller's First Assessment Conference for the 2008-09 school year on February 14, 2008. Upon his departure, she was appointed "Acting Principal" to oversee completion of a then under-construction second building.
3. By January 7, 2009, Mr. Gault had been succeeded at DeVeaux by Chad Henderly. Since Mr. Gault had departed prior to Ms. Speller's Second Assessment Conference, Mr. Henderly signed off on the finalized 2008-09 year evaluation. That assessment rates Ms. Speller as "Meets Expectations" in all categories. Mr. Henderly adds a separate sheet praising her efforts, stating: "This [her work efforts] has endeared members of the community to DeVeaux Middle School and typifies the relationship I want established between the community and the neighborhood school."

4. The following year, at the second assessment conference (January 8, 2010), Mr. Henderly rates Ms. Speller as exceeding expectations in two categories, as meeting them in ten and as "marginal" in nine. Notwithstanding the greater number of positive ratings, his "Summary Rating" deems Ms. Speller "marginal." His narrative comment, however, is:

Mrs. Speller is encouraged to strengthen *her communications skills* and *follow through* with routine tasks. Mrs. Speller possesses many strong attributes that make her a valuable asset and strong leader, but reduces the effectiveness of these skills through ineffective communication/interactions with stakeholders.

In his testimony, Mr. Henderly confirmed that, at such time, his criticisms of Ms. Speller were her "communication skills" and her "follow through" procedures. His recommendation was "continuation in present position."

5. On May 31, 2010, Mr. Henderly attempted to initiate a CD1 hearing (First Hearing) against Ms. Speller arising from her performance as a Testing Coordinator for a test which took place in April, 2010. Ms. Speller was cited for not discussing scheduling issues with the Toledo Federation of Teachers' representative in the building, even though she had not performed the position before, had received no instructions from Mr. Henderly, or a heads-up from him that the schedules were to be discussed with the TFI representative.
6. In October, 2010, Ms. Speller was "buff sheeted" to respond to an allegation that she had given false information to Mr. Henderly in that she reported certain students had served detentions, which she believed, when, in fact, they had not. This matter was resolved at that time by Ms. Speller agreeing that "she will not be quick to answer in the future."
7. In November, 2010, Mr. Henderly attempted to initiate another CD1 hearing (Second Hearing), setting forth a series of complaints which occurred, apparently, from January, 2009, until May, 2010. No hearing was held.
8. On January 7, 2011, Mr. Henderly completed Ms. Speller's evaluation for the 2010-2011 school year. She was rated as "meets expectations" in nine categories; "marginal" in ten; and "unsatisfactory" in two. Three (3) pre-printed recommendations were checked: request reassignment; be referred to the Intervention Program; and be placed in a program for further professional growth. He further recommended that Ms. Speller be given assistance through the Intervention Program or a similar Professional Development

opportunity, to strengthen skills in the areas of communication and systematic routine task accomplishment and follow-through.

9. On May 23, 2011, Ms. Speller was notified to attend a CD1 hearing to be held June 8, 2011, initiated by Mr. Henderly (Third Hearing). Ultimately this hearing was cancelled, and the offenses sought to be brought up at that meeting were alleged to have occurred on 3/8, 4/26 and 5/9, all in 2011. No evidence was considered relating to the 3/8 event; with respect to the 4/26 event (fight in classroom and hallway) Ms. Speller was apparently held blameless; and no evidence was presented with respect to the 5/9 event as Ms. Speller testified that she had attempted to make the required call which satisfies the Board policy. The "tardy for gym monitoring" charge is found to be *de minimus*.
10. It is found that the District may no longer premise any disciplinary action against Ms. Speller on any of the incidents discussed hereinabove in paragraph 9.

### Spring Elementary

1. Ms. Speller received a transfer from DeVeaux to Spring Elementary, the only transfer site available per Brian Murphy, for the 2011-2012 school year.
2. On July 27, 2011, Ms. Speller e-mailed Spring Principal Victoria Dipman requesting a meeting to discuss goals for Spring for the impending school year. Ms. Dipman did not respond.
3. Upon reporting to work (approximately August 9, 2011) Ms. Speller, when introducing herself to Ms. Dipman, was told by Ms. Dipman, "I know you!"
4. On August 16, 2011, Ms. Dipman began keeping a log of Ms. Speller's activities.
5. Early in the 2011-2012 school year, and sometime prior to October 20, Ms. Dipman was overheard saying to Brian Murphy on the telephone that she was following Chad's lead when it comes to Speller. Based upon competent, probative testimony on this issue, including Mr. Murphy's lack of a denial, it is specifically found that this conversation did occur. Ms. Dipman's denial casts a doubt on all of her testimony. Mr. Henderly's denial of contacts with Ms. Dipman concerning Mrs. Speller casts a doubt on all of his testimony, as well.
6. On September 1, 2011, Ms. Dipman scheduled a meeting with Ms. Speller and Mr. Murphy to discuss concerns Ms. Dipman had about Ms. Speller. At that meeting, in the presence of Ms. Dipman, Mr.

Murphy told Ms. Speller that the objective in transferring her to Spring was to give her "a fresh start". Ms. Dipman's actions belie that Ms. Speller was being given the benefit of "a fresh start."

7. On September 30, 2011, Ms. Dipman's log cites as an infraction Ms. Speller's handling of students being admitted into the classroom of teacher Kathleen Kosik. It is hereby found that Ms. Speller had the authority to perform this action without subjecting her to disciplinary actions.
8. Additional Dipman Complaints:
  - a. Allegation that Ms. Speller called one [REDACTED] "slow" on October 12, 2011, found unsubstantiated as to purport;
  - b. Headlock incident – October 12, 2011 – exercise by Ms. Speller of a positive interaction – "chick under the hen's wing." Isbell complaint found to be without merit;
  - c. [REDACTED] fight – November 15, 2011 – Ms. Speller on leave on that date;
  - d. Field trip incident – December 1, 2011 – no probative evidence that Ms. Speller did not have the emergency contact cards as Ms. Dipman alleged;
  - e. Fishing pole incident – December 7, 2011 – allegation that Ms. Speller improperly disclosed that Kristi Isbell had reported the incident to CSB and "may have" also disclosed Trisha Soleau as a reporter. Evidence later disclosed there was no basis for any report of Trisha Soleau, and that Kristi Isbell self-reported during an interview with the student on December 8;
  - f. [REDACTED] incident – December 15, 2011 – restraint of student was necessary to prevent injury to student, other students and staff and was reasonable and necessary;
  - g. January 20, 2012 – buff sheet re interrupting meeting with parents and disagreeing before parents about principal's decision. It is found that Ms. Speller knocked on Ms. Dipman's door and was invited to enter. Her comment about the inadvisability of eating in classrooms, if it can be considered disagreeing with the principal, is not good or, just cause to discharge;
  - h. January 25, 2012 – toy truck incident: Ms. Speller's action with respect to the confiscation and throwing away of the offending toy was a reasonable interpretation of Ms. Dipman's directive;

- i. January 26, 2012 – “order of dismissal” meeting. Ms. Dipman called an “emergency meeting” of the building leadership team (BLT) to address Ms. Speller’s perceived disregard of Dipman’s order of dismissal. In fact, as Ms. Dipman was away on January 25, Ms. Speller believed that the change Dipman had made on January 23 was in effect. It is found that this matter was merely a failure of communication and not an effort to undermine Ms. Dipman as Ms. Dipman thought. The January 26 meeting turned out to be a “dressing down” of Ms. Speller by Ms. Dipman in front of the BLT in which Ms. Dipman told Ms. Speller: “this is my building, (and you) are not the Principal of this building; you’re not going to come in here and challenge things; you need to understand that I am Principal and, yes, I am talking to you in my leader’s voice.”

Apparently, Ms. Dipman had some conversations prior to the January 26 meeting with at least one member of the BLT, Angela Reny who told Ms. Speller before the meeting, “If you think you have problems now, just you wait.”

This planned public humiliation of Ms. Speller by Principal Dipman says more about Ms. Dipman than it does about Ms. Speller;

- j. At Ms. Dipman’s instigation, the BLT generated a 23 point letter. The contents have been for the most part discredited by the district’s witness Wheatley, and are held to have no force and effect;
- k. February 8, 2012, the Tears, Dipman, Speller, Saunders, Horton meeting covering a complaint by the Tears’ son that Ms. Saunders had “grabbed him up.” The Tears had tried to talk to Ms. Saunders who they said had avoided them for three days. Marsha Tears had come to the school to Ms. Speller’s office; Ms. Speller called Ms. Saunders to ask her to come to her office to meet with Mr. and Mrs. Tears, and Ms. Saunders refused and, in a subsequent call, hung up on Ms. Speller. Ms. Speller sought out Ms. Dipman who said Saunders must meet with Mr. and Mrs. Tears. Ms. Saunders later claimed that Ms. Speller had orchestrated the meeting to intimidate Ms. Saunders. It is found that this claim is unfounded and, to the contrary, Ms. Speller’s actions were designed to defuse the situation and do not warrant disciplinary action;
- l. March 1, 2012 – buff sheet meeting alleging Ms. Speller violated Ms. Dipman’s directive about parent calls to teachers. This was generated by Angela Reny’s complaint that Ms. Speller had called her room. As Ms. Speller’s call was that of an administrator, not a parent, it is found to not have violated Ms. Dipman’s directive;



- m. Buff sheet re cafeteria "food fight" during time of Black History Day luncheon. Ms. Dipman was aware of Ms. Speller's involvement and the setting up and conducting of the luncheon, and she (Ms. Dipman) did not attend the luncheon, and she, in fact, left the building at noon. A complaint that Ms. Speller was responsible for the cafeteria events is unsupportable and does not warrant disciplinary action;
- n. On or about March 15, 2012, Tina Afonica submitted by letter that Ms. Speller had grabbed two students by the neck and on March 19, 2012, that Ms. Speller grabbed a student by the hand and took him to the ground. The complaint proved to be unfounded as to failing within the definitions of corporal punishment or inappropriate form of discipline. No student or parent complaints ensued from these events. Apparently, such infraction, akin the football tossing-around that Ms. Speller engaged in, was a bonding experience meant to humanize the "school environment" and make it a positive experience for students;
- o. April 5, 2012 – buff sheet for inappropriate physical contact with a kindergartener based on Trisha Soleau's email to Ms. Dipman of April 3, 2012, and, probably, Wheatley's report. The testimony supports the proposition that Ms. Speller did not use more force than was reasonable and necessary and therefore, did not violate Board policy in this regard;
- p. The "whip the dog shit out of you" matter. It is found by competent probative evidence that the child's complaint was unfounded and that the event never occurred and, as such, the disciplinary action against Ms. Speller is improper.

#### **IV. Peer Mentor Experience**

1. Although Ms. Speller was transitioning from her experience as a high school teacher for six (6) years and a high school administrator (assistant principal) for four (4) years to a position as administrator of students in schools of elementary and junior high school age students in August, 2008, she was not provided with any peer mentoring until as the result of a meeting on October 1, 2011, with Ms. Speller, Dr. Wheatley, Brian Murphy, Ms. Dipman and Don Yates.
2. The record is ambiguous as to the nature of the mentoring status as to whether it was peer mentoring or intervention as a final step before termination. This ambiguity is hereby resolved in favor of Ms. Speller, and Dr. Wheatley's involvement is found to be peer mentoring.

3. Although the mentoring was in place, and Ms. Dipman even saw some progress and, in Dr. Wheatley's April report she reported that Ms. Speller was meeting expectations in eight categories, emerging in seven and marginal in only three, Dr. Wheatley abruptly quit the mentoring role. At the time she quit, Ms. Speller was on a 60 day plan of improvement which she was not allowed to complete.
4. The hearing officer in the Continuing Investigative Hearing did not consider any matter relating to the mentoring program in arriving at her recommendation to terminate. The peer mentoring piece is not mentioned herein to relate to the termination decision, but merely as evidence of the input, or lack thereof, which Ms. Speller received from the Administration in the area of professional development and support in transitioning to a new area of academic supervision.

**V. Findings of Hearing Officer, Continuing Investigative Hearing  
conducted June 14, 22 and 29, 2012.**

1. The findings of Hearing Officer Carol Thomas leading to the recommendation for termination from the following Specification of Changes:
  - a. Poor Job Performance
  - b. Repeated and Consistent Failure to Perform Job Duties
  - c. Unprofessional Behavior
  - d. Insubordination, and
  - e. Creating and contributing to an offensive work environment at Spring Elementary.
2. No record exists of the proceedings before Ms. Thomas.
3. Ms. Thomas held that insubordination is a termination offense and listed a series of events involving Ms. Speller's conduct which she classified as insubordination. These are as follows:
  - a. Ms. Speller violated Board Policy JFG when she did not contact parents about students being arrested. That is insubordination.
  - b. Ms. Speller failed to complete the duties of Testing Coordinator, a supplemental position that she was paid to perform. That is insubordination.
  - c. Ms. Speller did not follow through with a directive regarding attendance of students at DeVeaux. That is insubordination.
  - d. Ms. Speller failed to put up the attendance board as she was directed to do by Ms. Dipman. That is insubordination.
  - e. Ms. Speller continued to interrupt teachers during planning time even though she was given a direction not to do that. That is insubordination.

f. Testimony was given by several people of seeing Ms. Speller putting her hands on students in an inappropriate manner. These include but are not limited to

- i. Putting foot on student
- ii. Grabbing student's arm and twisting until student was on the ground
- iii. Putting student in a headlock and walking around
- iv. Pushing student up against a wall
- v. Grabbing student by the neck and bending them over.

These are serious violations of Board Policy JGA and that is insubordination.

g. Testimony was also given by the principal that on several occasions, she yelled at and used sarcastic remarks to students. These are all violations of Board Policy JGA. That is insubordination.

h. A teacher testified that Ms. Speller threatened to take away the teacher's lunch period. Threats are a violation of Board Policy JFCF-R. That is insubordination.

i. Testimony was given that Ms. Speller said that white teachers cannot touch black students but that she can because she is black. She also told an African American teacher that there was too many African Americans in Spring School. Ms. Speller told a teacher that she would not discipline or be as harsh to black students that were referred by white teachers. That is a violation of Board Policy AC. That is insubordination.

4. Addressing the Thomas conclusions in order, it is found as follows with respect to each:

- a, c., d., and e., It is found by competent probative evidence that the District failed to show that the events complained of occurred or were an example of "insubordination" on the part of Ms. Speller, in any event, were *de minimis*.
- b. The Testing Coordinator Complaint is found to be without merit due to the incomplete instructions given to Ms. Speller by Mr. Henderly.
- f. It is found by competent probative evidence that the events set forth do not constitute exercises of excessive discipline and cannot constitute insubordination.
- g. None of the events of this nature that were testified to in the District's case before the Referee rose to the level of good and just cause for termination and, in any event, could not be determined to be insubordination.

- h. The "threat" indicated in the paragraph, if made, was beyond the scope power of Ms. Speller to bring about. If made, it was poor judgment to make such a statement, but it does not rise to the level of good and just cause to terminate, and, in any event, it is not insubordination.
- i. Likewise, the comments attributed to Ms. Speller in this paragraph, if made, were ill advised but do not rise to the level of good and just cause for termination, and, in any event, such expressions would not be insubordination.

## VI. Conclusion

From the evidence adduced at the extensive hearing hereon, the weight determined to be given to the testimony of each witness, the relevance of such testimony, a full review of the record and exhibits and the arguments of counsel, the following conclusions are reached:

Sandra Meeks Speller has brought superior academic credentials to her 16 year career with Toledo Public Schools and continues to advance academically by her pursuit of a doctoral degree at the University of Toledo.

After a stellar career as a teacher of mathematics and as a Vice Principal of Scott High School, Ms. Speller was assigned by the Administration as a vice principal at the elementary level without receiving the peer mentoring which certainly would have been appropriate.

In her evaluations, to and including her first evaluation at DeVcaux, Ms. Speller received laudatory marks in which there were recommendations that she be continued in her present position, and/or that she seek advancement. In fact, on March 27, 2012, the Board approved Ms. Speller's contract as an Assistant Principal for the school years 2012/2013-2014/2015; and on April 23, 2012, and the Superintendent, by letter to the Ohio Department of Education, applied to have a grade band for PK-6 added to Ms. Speller's teaching license.

At DeVeaux, she was the only female administrator and the only African-American administrator. As such, to a great extent she served as an important link to the majority African-American community which is served by DeVeaux, which her early evaluations indicated. Ms. Speller was probably not accepted into the all-white male administrative hierarchy at DeVeaux which she described as "old boys' network."

Throughout her tenure at DeVeaux, her performance was deemed increasingly unsatisfactory by Mr. Henderly. The main complaint was in the area of "communication", but several events caused Mr. Henderly to seek CDI hearings on three separate occasions. These specific events have been referred to elsewhere and, for the most part, discredited.

A transfer from DeVeaux after the 2010-211 school year was initiated to give Ms. Speller a "fresh start". In the summer of 2011, Ms. Speller received a transfer to Spring Elementary which Mr. Murphy testified was the only school available. Again, Ms. Speller was the only African-American administrator.

At some point, probably after the transfer but before Ms. Speller reported to Spring, there was some communication between Mr. Henderly and Ms. Dipman, who was to be Ms. Speller's new principal. Based on events, it would appear that Mr. Henderly "poisoned the well" for Ms. Speller which, effectively, prevented her from having the fresh start or clean slate which she had been promised and which she expected. This is further evidenced by the fact that Ms. Dipman began keeping a "log" on Ms. Speller from almost the first day of school. Ms. Dipman's attitude toward Ms. Speller was not lost on other administrators and staff at Spring, a number of whom joined Ms. Dipman in "keeping tabs" on Ms. Speller's activities.

The phrase "toxic work environment" springs to mind when describing Ms. Speller's later tenure at DeVeaux and her tenure at Spring.

No defenses based upon interpretation of the Collective Bargaining Agreement between the Board and the Toledo Association of Administrative Personnel were considered in the rendering of the Decision, with the full understanding that a reviewing tribunal, if any, may have a different interpretation of the application of the Agreement.

Based on all the foregoing, it is the finding and conclusion of the Referee that the Administration has failed to carry the burden that the conduct by Ms. Speller of which she has been accused which has been proven by competent evidence is good and just cause for the termination.

Whereupon, it is the Recommendation of the Referee that Ms. Sandra Meeks Speller should not be terminated.

Respectfully submitted,

  
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Anthony L. Gretick, Referee

**Proof of Service**

Copies of the Decision and Recommendation have been served via fax and U.S. Mail on:

Roman Arce, Esquire  
Marshall & Melhorn, LLC  
Four SeaGate, 8<sup>th</sup> Floor  
Toledo OH 43604

and

Dennis D. Grant, Esquire  
Bailey Cavalieri LLC  
10 W Broad St., Suite 2100  
Columbus OH 43215

this 6<sup>th</sup> day of May, 2013.

  
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Anthony L. Gretick, Referee