

**COMMONWEALTH OF KENTUCKY
EDUCATION PROFESSIONAL STANDARDS BOARD
AGENCY CASE NO: 20-03725
CERTIFICATE NO. 200301086
ADMINISTRATIVE ACTION NO. 22-EPSB 0162**

EDUCATION PROFESSIONAL STANDARDS BOARD

PETITIONER

VS.

KIMBERLY JOHNSON

RESPONDENT

RESPONDENT'S MOTION TO DISMISS WITH PREJUDICE

Please find enclosed in this motion the Procedural and Contextual History, along with the Exhibits, for your reference.

As you are well aware, in 2019, Johnson filed a lawsuit against JCPS, bringing forth serious allegations including discrimination, retaliation, whistleblower retaliation, and a hostile work environment. Despite JCPS's claim that Johnson's write-ups and subsequent demotion were unrelated to the lawsuit, the evidence overwhelmingly contradicts this assertion. It is important to emphasize that even if the allegations were not directly connected, the significance of Johnson's claims regarding a hostile work environment and disparate treatment compared to her white colleagues remains undiminished.

Despite the settlement reached between Johnson and JCPS, legitimate concerns persist regarding the authenticity of the agreement. It is abundantly clear that EPSB has exploited the situation to perpetuate discrimination, retaliation, whistleblower retaliation, and harassment on behalf of JCPS. Particularly alarming is the suggestion made by EPSB that Johnson undergo regular medical evaluations to ensure she poses no harm to herself or others, a suggestion that only serves to perpetuate harmful racial stereotypes, such as the "angry, crazy, Black woman" trope.

Furthermore, it is important to highlight that Johnson has continued to teach for three years after the disciplinary action and demotion. This raises the question of why EPSB allowed her to remain in the classroom if they genuinely considered her to be a threat. In reality, EPSB was fully aware that Johnson posed no danger, yet they pursued a campaign aimed at humiliating and embarrassing her.

These actions by EPSB not only demonstrate their lack of integrity but also expose the underlying motives behind their treatment of Johnson. It is essential that such behavior is thoroughly addressed and rectified, ensuring that all individuals are treated fairly and with respect. The public deserves to have confidence in the institutions responsible for upholding justice and equality.

In addition, although JCPS argues that they have no control over EPSB's actions, the Respondent contends that a "reasonable connection" does exist between them. JCPS bears responsibility for fabricating the falsehoods that EPSB has lodged against Johnson, and EPSB's selective targeting of Johnson while disregarding other educators involved in numerous ethical and legal violations further reinforces this connection. Moreover, the interconnections among KDE, EPSB, and JCPS staff and employees provide additional evidence supporting a reasonable connection. Additionally, the appointment of a hearing officer affiliated with JCPS's legal counsel, despite Johnson's request for recusal, highlights yet another reasonable connection.

Furthermore, it has come to light that another Black JCPS educator has been assigned the same hearing officer, which reveals a deeply concerning pattern. It appears that any Black JCPS educator who has had or could potentially have a lawsuit and/or refuses to sign an agreed order with EPSB is systematically directed to this specific hearing officer, providing an opportunity for him to relay EPSB information to JCPS. Moreover, it is alarming to note that the EPSB staff of attorneys are not only aware of this misconduct but actively participate in it. These facts are not only deeply troubling but also raise fundamental questions about the public's trust in those responsible for enforcing laws and upholding standards.

After a meticulous review of this compelling evidence and a deep understanding of the Petitioner's attorneys' ethical obligations to report misconduct to appropriate authorities, including the American Bar Association, the Respondent respectfully requests the dismissal of the Petitioner's case with prejudice. The presented evidence irrefutably exposes multiple instances of evidence tampering, violation of the Respondent's rights, retaliation for legitimate reports, and active involvement in aiding, abetting, and conspiracy. The gravity of these findings necessitates the permanent dismissal of the case, effectively preventing any future re-filing of these baseless allegations.

To ensure transparency and accountability in this matter, the media and community members have been included in the recipients of this motion. By involving these stakeholders, we aim to shed light on the undisclosed agreements and behind-the-scenes actions that have taken place. This important step seeks to inform the public about the circumstances and encourage appropriate authorities to conduct a comprehensive investigation into potential criminal activities associated with these proceedings. Through such an investigation, we can ensure a thorough examination of the situation and work towards a just resolution.

PROCEDURAL AND CONTEXT HISTORY

In August 2018, Dr. Kimberly Johnson (referred to as "Johnson") achieved a well-deserved promotion from a district academic coach to a school counselor, marking a significant milestone in her career. Over the course of her 17-year tenure at Jefferson County Public Schools (JCPS), Johnson had diligently worked her way up the ranks, starting as a substitute teacher, progressing to a teacher, then an academic coach, and finally reaching the role of school counselor. It is important to recognize that Johnson, a highly accomplished Black woman, had faced obstacles in the past and took a courageous step by filing a lawsuit against JCPS in 2015, which was settled in 2017.

Furthermore, it is worth highlighting that Johnson's professional track record leading up to her promotion as a school counselor was exemplary. Throughout her years of service, she had consistently demonstrated exceptional performance, as evidenced by the absence of any disciplinary actions, write-ups, or low evaluations. This showcases her unwavering dedication to her responsibilities and the positive impact she had made in her previous roles.

However, soon after assuming her new role as a school counselor, Johnson became witness to a multitude of issues and perceived violations of ethical standards, as well as state and federal laws. These concerns encompassed disparaging treatment of Black staff members, parents, and students, negligent and improper billing for mental health services by an external counseling agency, lack of student confidentiality, problems within the special education, and instances of improper restraints and holds. In response to these troubling circumstances, Johnson displayed unwavering commitment by reporting her concerns to the district and subsequently to the Office of Civil Rights (OCR), filing multiple complaints.

Despite her determined efforts to address these problems, Johnson encountered a series of adversities and mistreatment as a result of speaking up at the school, district, state and federal levels. She persistently provided detailed rebuttals to unwarranted

write-ups and unjust treatment, displaying resilience and determination. Unfortunately, she faced numerous challenges, including intense scrutiny of her work, consistently low performance evaluations, denial of necessary resources, improper grievance against her, a parent threat, maligned professional reputation, and a hostile work environment. These injustices became unbearable, prompting Johnson to file a lawsuit in May 2019. The basis of her legal action included claims of discrimination, retaliation, whistleblower retaliation, and a hostile work environment, seeking relief from the systematic mistreatment she endured.

It is important to note that Johnson's principal at the time, Maria Holmes, was aware of the lawsuit; however, this did not deter Holmes from unjustly giving Johnson a low final evaluation rating for the 2018-19 school year.

In June 2019, Johnson followed the established policy and filed an appeal at the district level due to the unfairness surrounding her low rating. Regrettably, JCPS failed to provide a response within the required 30-day period. When Johnson sought clarification from Jimmy Adams, JCPS Chief of Human Resources, he disregarded the policy by dismissing her concern, claiming that the 30th day coincided with a weekend. Adams informally mentioned that Johnson had won her appeal, yet when she raised the issue of her evaluation not being rescored as per policy, he downplayed its significance. Johnson found it perplexing that she was expected to adhere to policy while the district seemed exempt. Additionally, when she inquired about the state-level appeal process, Adams chose to completely disregard the entire evaluation, as if it had never occurred.

Around June 2019, some school personnel, including Maria Holmes, retired, moved, or transferred to other schools. In July 2019, JCPS appointed Charita Kimbrough, a Black woman, as Holmes' replacement. Johnson initially believed that Kimbrough's appointment would ensure strict adherence to policies encompassing state, federal, and district regulations within the school. In a candid conversation, Johnson confided in Kimbrough about the evaluation debacle and her ongoing lawsuit, expressing her desire to reclaim her former office, which Holmes had displaced her from, relocating her to a storage room. Initially, Kimbrough responded by stating that she would consider Johnson's request. However, a couple of weeks later, Kimbrough informed Johnson that she could move back into her old office in December 2019. While Johnson found this response peculiar, she had no intention of relocating mid-year. Consequently, during the same conversation, Johnson made the decision to remain in the storage room for the entire school year, opting to tolerate the unsatisfactory conditions.

Additionally, despite Johnson's pivotal roles as the Section 504 Chair and special education backup, Kimbrough and Will Jacoby, the Special Education Implementation Coach and Section 504 backup, held weekly meetings without including Johnson. This

further compounded the sense of exclusion and hindered the collaborative efforts necessary for effective special education and Section 504 implementation.

On or around September 11, 2019, the Office for Civil Rights (OCR) notified both Johnson and JCPS that they would be investigating some of the specific claims made by Johnson, particularly those related to special education and Section 504. OCR assured Johnson that she would be protected from any retaliation, as mandated by the law. This acknowledgment provided Johnson with a sense of reassurance and support during the investigation process.

On or around September 18, 2019, OCR sent another email suggesting that JCPS might be open to Facilitate Resolution, which is essentially a form of mediation. Despite OCR's statement that they had not identified the complainant, Johnson was aware that JCPS knew she was the complainant. However, Johnson informed OCR that she had no interest in participating in any further proceedings. She believed it would have been more appropriate for JCPS to mediate with the parents and students directly since she had already filed a lawsuit regarding the retaliation she had faced..

Almost immediately after Kimbrough assumed her role, Johnson began facing numerous adversities. She was called into meetings with Kimbrough, only to be unjustly accused of not working well with others. These meetings turned into interrogations filled with disparaging treatment, false allegations, and improper grievances filed against Johnson by Katie Stoltz, alongside her union representatives James Hughley and Andrew Bailey. Furthermore, Johnson was consistently excluded from important meetings and denied access to Will Jacoby's office, severely hindering her ability to stay informed about matters related to special education. Despite Kimbrough's assurances, she failed to fulfill her promise of providing Johnson with access to the special education folders and relevant information.

Johnson underwent a performance evaluation that initially showed positive feedback, but Kimbrough failed to document it properly and neglected to meet with Johnson within the required five school days, as outlined in the policy. Consequently, Johnson was forced to redo the evaluation, which this time resulted in a negative assessment.

In an attempt to address these issues, Johnson reached out to Jimmy Adams, but instead of finding support, she faced further harassment. Additionally, starting in December 2019, despite performing her job duties consistently throughout the school year, Johnson became the target of various baseless accusations. She was compelled to attend meetings at the school and at VanHoose, where she endured constant scrutiny and unwarranted changes in job duties. For instance, the behavioral coach, who had a history of physical abuse towards children and was previously reported by

Johnson, was given the opportunity to conduct group counseling, while Johnson was assigned security responsibilities.

Kimbrough continued to tamper with evidence by falsely documenting Johnson's alleged wrongdoing, and the district not only allowed but also participated in treating Johnson in this unjust manner. This mistreatment persisted for months, creating an extremely hostile work environment for Johnson.

On March 2, 2020, JCPS submitted multiple documents to the Education Professional Standards Board (EPSB), which contained false documentation prepared by Kimbrough, accompanied by false information in the superintendent's discipline letter. Johnson, having identified the false information, brought it to the attention of Odell Henderson and Charita Kimbrough on or around February 29, 2020. Kimbrough acknowledged the need for corrections and promised that it would be corrected. Due to the COVID-19 pandemic, in-person schooling was suspended after March 13, 2020. It was on this date that Kimbrough clandestinely conducted a performance observation on Johnson while she was assigned cafeteria duty. Johnson believed that the transition to remote learning would provide an opportunity for all relevant incidents to be digitally documented.

Around April 8, 2020, Johnson received a letter from EPSB, which included one of her rebuttals attached but contained the original false accusations and the unrevised superintendent's letter. No other pertinent documentation was included in the package. It was then that Johnson's learned only partial portions of her rebuttals were ultimately forwarded to EPSB. In response, Johnson submitted a rebuttal to EPSB on or around May 7, providing evidence of the tampered documents and informing them of her reporting of misconduct.

On or around April 14, 2020, Kimbrough requested a remote meeting with Johnson to discuss the evaluation from March 13, 2020. Although the evaluation was positive, it could not be utilized due to Kimbrough's failure to adhere to policy. Additionally, Kimbrough asked Johnson to either input grades into the system or provide her password to another staff member so they could enter the grades. Johnson chose to input the grades herself as it was against policy to give someone else your login credentials.

Between the end of April and the beginning of May, Johnson submitted several letters to EPSB detailing the misconduct of educators. Towards the end of April, Kimbrough informed Johnson that they needed to discuss a "due process" that was supposedly given to Johnson in late February. While Johnson had no recollection of such a meeting, she was not surprised by this false utilization of "due process," as she had not received

proper due process throughout her tenure as a school counselor. The remote meeting was held on May 12, 2020.

During the meeting, Johnson received multiple write-ups alleging her failure to address a student's 504 plan promptly (despite the district withholding the doctor's statement from Johnson between August 2019 and early February 2020). Additionally, false documentation, a negative evaluation, an E-2 form instructing Johnson to avoid contact with Stoltz (despite Johnson not having been in contact with Stoltz or anyone else physically for months due to the pandemic), and a letter of demotion (essentially for being labeled as "divisive") were presented to Johnson. Also, the superintendent's report from March 2, 2020, was said to have been revised and the revision made to EPSB according to Kimbrough and Tyson Gormon, JCPS attorney, Wyatt, Tarrant & Combs. The district had succeeded in retaliating against Johnson for reporting their actions to various entities.

Before the expiration of the ten-day deadline, Johnson promptly appealed all of the documents she had received.

In June 2020, Superintendent Martin Pollio was recorded discussing Johnson's write-ups and demotion with community activist Gay Adelman. He suggested that Johnson should file an appeal, but also made remarks implying that discrimination could not be involved in Johnson's case due to the presence of a Black principal and a Black investigation. Additionally, in June 2020, Johnson received notice that the EPSB would be investigating her case.

JCPS once again failed to comply with policy deadlines regarding Johnson's appeals. Many of the appeals went unanswered for more than 50 days, and one specific appeal, concerning the evaluation, remained unanswered for over 200 days. It was only after Johnson contacted Commissioner of Education Jason Glass that a response was received.

Around July 2020, JCPS entered into a Resolution Agreement with OCR, in which they committed to fulfilling their obligations regarding Section 504 and special education.

In August 2020, both Kimbrough and Holmes underwent depositions related to the ongoing lawsuit.

In September 2020, JCPS submitted a report to EPSB regarding the documents presented to Johnson on May 12, 2020. However, EPSB sent another notification to Johnson in October 2020, mistakenly addressing it to her attorney. After her attorney forwarded the letter to her, Johnson noticed that all her rebuttals and appeals were

missing from the documentation. Furthermore, her job title was incorrectly listed as guidance counselor, despite having been demoted as of July 1, 2020. These discrepancies strongly suggested that Johnson's information had been tampered with.

Around October 2020, Johnson reached out to Jimmy Adams regarding her evaluation appeal but initially received no response. She had to follow up and contact him again, only to discover that her evaluation appeal from May 22, 2020, had not been decided within the 30-day period as required, but instead had been delayed for several months. Adams also withheld information about the process of appealing at the state level, further hindering Johnson's pursuit of justice.

In November 2020, Odell Henderson underwent a deposition related to the ongoing lawsuit. On or around November 23, 2020, Johnson sent OCR an email stating that she was being retaliated against.

Johnson filed a new complaint on or around December 1, 2020. On or around December 31, 2020, Johnson provided OCR with some of the EPSB letters of complaints she had previously sent to EPSB. In December 2020, Johnson's evaluation went through the district appeal process, and the decision partially favored Johnson. However, she was not satisfied with the outcome. Despite facing obstacles due to the lack of information provided by district and state employees, Johnson managed to obtain the necessary information with the support of the Commissioner. She proceeded to file an appeal at the state level, which was heard in June 2021. Unfortunately, the state appeals panel sided with the district appeals panel, further adding to Johnson's challenges.

On or around January 14, 2021, Johnson received a letter from OCR requesting to meeting remotely with Johnson and her attorney.

On or around February 1, 2021, OCR issued a letter finding that Johnson's pending lawsuit against JCPS contained "substantially similar allegations" such as Johnson being demoted from a counselor to a teacher and JCPS allegedly failing to communicate with Johnson concerning her application for new counselor positions .

On or around August 2, 2021, Johnson received a letter via email stating that the monitoring for JCPS' Resolution Agreement was completed

Johnson herself underwent deposition proceedings around September 2021 and again in December 2021. The trial was scheduled for February 22, 2022.

On or around February February 19, 2022, Johnson's attorney told her that if Johnson did not settle, then Tyson [Gorman], JCPS' attorney from Wyatt, Tarrant, & Combs threatened to appeal Johnson's win at trial by taking the case to the Supreme Court, which according to Johnson's attorney would prevent resolution of the case for years, "...about 7 years". The settlement agreement had several issues that needed to be addressed and discussed between Johnson and her attorney. Specifically, Johnson was informed that the complaint pending at EPSB was beyond JCPS's control. Additionally, Johnson was told that if EPSB did pursue her regarding any of the things that occurred, Johnson could show them the settlement agreement and that would resolve any issues. The settlement agreement was signed on or around February 26, 2022.

Approximately three months after settling the lawsuit, on or around May 26, 2022, the Petitioner by way of counsel, Cody Hollan, engaged in private meetings via phone and emails with the Respondent's attorney, Marilyn Shrewsbury. On May 26, 2022, Hollan wrote sent Shrewsbury "an updated offer", which expired on "June 10, 2022".

On May 31, 2022, Hollan wrote to Shrewsbury, "Attorney Shrewsbury: Have you had an opportunity to speak with Dr. Johnson regarding the attached proposal? I would like to have this case completed at the June Board meeting..."

On June 6, 2022, Hollan wrote to Shrewsbury, "...I am just following up on this offer".

Shrewsbury's assistant, Raven contacted Johnson for the first time concerning this matter via email on June 6, 2022. Johnson wrote, "What time would she like to meet? I never did agree that I had violated any ethics."

Also, on or around June 6, 2022, Shrewsbury told Johnson that the EPSB matter had nothing to do with the lawsuit, and she informed Johnson that Johnson could not sue for retaliation and/or breach of contract because EPSB had sovereign immunity.

On or around June 6, 2022, Johnson rejected both proposed agreed orders - 5/25/22 and 5/26/22. At that point, Shrewsbury admits to Johnson that she did not specialize in administrative law and Johnson would need to find an attorney to represent her.

Proposed Agreed Order dated May 25, 2022, stated the following: "By report dated March 2, 2020, Dr. Martin Pollio, Superintendent of Jefferson County Public Schools, notified the Board of the following conduct of Johnson: returned a razor blade to a student with a history of self-harm comments; failed to respond to several behavioral crisis situations, when notified by her colleagues,; and failed to respond appropriately to a student's comments about bringing a gun to school. Other sanctions included: all

certificates suspended for 60 days from June 1, 2022 to July 31, 2022; on or before August 1, 2022, Johnson was to complete six hours of education ethics, nine hours of communicating effectively, and three hours on positive professional relationships; and licenses will be probation for five years with no discipline.

Proposed Agreed Order - Draft 2 dated May 26, 2022, stated the following: “By report dated March 2, 2020, Dr. Martin Pollio, Superintendent of Jefferson County Public Schools, notified the Board of the following conduct of Johnson: returned a razor blade to a student with a history of self-harm comments; failed to respond to several behavioral crisis situations, when notified by her colleagues,; and failed to respond appropriately to a student’s comments about bringing a gun to school. Other sanctions included: voluntary surrender certification for school counselor; on or before August 1, 2022, Johnson was to complete six hours of education ethics, six hours of communicating effectively, and three hours on positive professional relationships; and licenses will be probation for five years with no discipline.

On June 9, 2022, Hollan wrote to Shrewsbury, “...friendly reminder that the COB tomorrow, June 10, 2022 is the last day to accept the offer. The docket for the June 20, 2022 Board meeting..or Ms. Johnson will have to wait until August to attempt to resolve her case.

On or around June 9, 2022, Johnson finds an attorney in Louisville based on recommendations from other educators. She talks to this attorney, who agrees to represent her; however, by the next day, the attorney does not respond to Johnson’s phone calls; however, he calls Shrewsbury and reveals to her that Jefferson County Teacher Association (JCTA) is his biggest client, and he was told that if he represented Johnson, then it would be a conflict of interest.

On June 10, 2022, Shrewsbury wrote to Hollan: “Cody [Hollan], Dr. Johnson found an attorney to represent her interests in this matter moving forward...”

Sometime around on or around June 15, 2022, Johnson retained John Landon to represent her before the EPSB.

On or around June 23, 2022, in a text message, Johnson writes to Landon that she had not heard from Landon. Landon replies, “...I’m waiting on Todd [Allen] (KDE General Counsel) to give a blessing...”

On or around July 12, 2022, Johnson gets an email from Landon, “I haven’t heard back from Todd [Allen] yet regarding if there’s a conflict..”

Also, on or around July 12, 2022, Hollan wrote to Landon, "Good afternoon Mr. Landon: Please find attached an updated proposed Agreed Order for EPSB vs. Johnson. All prior offers are rescinded at this time. The deadline to respond to the attached offer is July 20, 2022."

Proposed Agreed Order on July 12, 2022, was revised in the following ways: number 3 which referred to the March 2, 2020 superintendent's report now read: "By report dated March 2, 2020, Dr. Martin Pollio, Superintendent of Jefferson County Public Schools, notified the Board of the following conduct of Johnson: returned a shaving razor to a student with a history of self-harm comments; failed to respond to several behavioral crisis situations when notified by her colleagues; disparaged her colleagues to parents of students; and failed to respond appropriately to a student's comments about bringing a gun to school. The following sanctions were noted: voluntary surrender of School Counselor certificate; six hours of educator ethics; six hours of communicating; three hours of positive professional relationships by October 1, 2022; and five years probation.

On or around July 14, 2022, Hollan found a "Motion to Strike " in the Johnson vs. JCPS lawsuit documents.

Also, on or around July 14, 2022, Hollan wrote to Landon: "Mr. Landon: I wanted to make you aware of the attached motion to strike that proves Dr. Johnson breached confidentiality when she filed a document that "contain[ed] confidential information involving minor children... See Johnson, Kimberly - Motion to Strike. Due to this serious negligence, the document remains unredacted in the court record as of today, July 14, 2022, which is a serious breach of confidentiality. The document has been on Courtnet via a hyperlink since December 16, 2021.

Also, on or around July 14, 2022, Landon wrote to Hollan: "...I'm assuming her attorney made an error and not her but I have yet to take a look at it,"

Also, on or around July 14, 2022, Hollan wrote to Landon: " Does Dr. Johnson state that it was her attorney's error?"

Also, on or around July 14, 2022, Landon wrote to Hollan: "I'm just assuming since she doesn't have Courtnet and the attached motion from that person. My experience that's the only way docs end up on pdfs there is if an attorney uploads them."

Also, on or around July 14, 2022 (at 9:23 PM), Hollan wrote to Landon: "Dr. Johnson had the duty to ensure that those documents were kept confidential. She provided her

attorney with a student's social security number and the student's confidential BIP documents. She had access to those documents due to her role as a counselor and should have never taken them from the school. She should have never given those documents to anybody without redacting them first. It was her responsibility to keep them confidential. It is a very big issue that there is an elementary school student's name and social security number on a court record online with a hyperlink due to her conduct."

Also, on or around July 14, 2022, Hollan issued a new proposed agreed order. This proposed agreed order differed from the previous one in, but not limited to the following ways: school counselor permanently revoked; all other certificates suspended for 60 days or until Johnson provided written proof of being examined by two physicians and one neurologist "as Board approved". These three physicians were to complete a comprehensive health evaluation to ensure that Johnson is physically and mentally fit to return to the classroom, presents as capable of performing her duties as an educator and is not a danger to herself or others. These medical and neurological exams were to be completed two a year by January 1st and August 1st for as long as Johnson held a professional license. Also, Johnson was to complete professional development the the following areas by October 15, 2022: six hours on educator ethics; six hours on communicating effectively; three hours on professional relationships; and three hours on confidentiality. Finally, all of Johnson's certificates were to be on probation for five years with no other discipline.

Also, on or around July 14, 2022, Johnson filed another OCR complaint against the Education Professional Standards Board (EPSB).

On or around July 15, 2022, Hollan wrote to Landon: I apologize, but I meant a student's name, student identification number, and her conference summary report regarding her possible need for an IEP. It might help Dr. Johnson can clarify who gave her attorney the documents?...There are multiple SSIDs of students listed and multiple names of students".

On or around July 20, 2022, Landon wrote to Hollan: "...It's my understanding she is considering starting her own practice..a license suspension will negatively impact that."

Also, on or around July 20, 2022, Hollan wrote to Landon: "Just to be clear, there is no way that I will accept just training...Did Dr. Johnson agree in the settlement with the District not to seek a counselor position in the future? Also, who is going to do an open records request or look up a revocation of a counselor's certificate on the NASDTEC before they seek counseling services from a provider? I do not see this as an issue if

she wants to start her own practice.”

On or around July 26, 2022, Johnson sent Landon a text message with the following: “I’m interested in moving forward with 13b hearing.” Also, Johnson asks Landon to get a copy of the Superintendent’s Report dated March 2, 2020.

On or around July 27, 2022, Landon wrote to Hollan: “Hi Cody...can you ship me the complaint/report that was filed on this that the allegations came from.”

On or around July 29, 2022, Hollan wrote to Landon: “She should have the complaints/reports.”

On or around July 29, 2022, Landon wrote to Hollan: “..should probably go the 13b route..”

On or around August 1, 2022, Hollan wrote to Landon: “John, the best I can do is a revocation of her counseling certificate and training. I will remove the fit for duty assessment only if she agrees that her actions violated the statute. If we proceed to a hearing, I will request a suspension of her teaching certificate and a fit for duty assessment and I am confident the hearing officer will recommend both. The more I investigate and go back, the more issues and witnesses I find. A long list of individuals will testify that Dr. Johnson created a hostile work environment and was impossible to work with. The witnesses will corroborate the allegations in the complaints and will show that there is a very clear pattern. Dr. Johnson does not deny some of the allegations are true, but she just fails to see an issue with her actions or argues that others did the same actions. Those arguments may have been relevant in her lawsuit against JCPS, but they are irrelevant to this case...I am very concerned that Dr. Johnson has limited insight into any short-comings and does not appreciate the reason of concern by the board and is at risk for additional similar behaviors due to her limited insight...The deadline is 11:00 am on August 10, 2022, after the deadline...I will docket the charges on September 14, 2022.

On or around August 4, 2022, Johnson received a response from OCR which stated that OCR could not proceed with the EPSB complaint because EPSB did not receive Federal financial assistance.

On or around, August 6, 2022, Johnson filed a new complaint against JCPS, regarding this EPSB case.

On or around August 8, 2022, Johnson received a text message from Landon stating that he got the E-2 and letter. Also, he included the superintendent's report dated March 2, 2020. In the text message, Johnson could also see that Cody had written to Landon, "Thank you, I intended to also include, in addition to the other sanctions, a revocation of her professional certificate for instructional leadership - principal..."

On or around August 8, 2022, Johnson released Landon as her counsel and retained Randall Strause.

On or around August 10, 2022, Johnson wrote to Strause via email and wrote the following: "...I am experiencing First Amendment Retaliation and Harassment at the hands of a government agency which is in violation of my constitutional rights. The superintendent and principal produced false statements as a form of retaliation and harassment. I have extensive evidentiary proof of this and witnesses..Also, based on this guide...I don't have to exhaust administrative remedies since my constitutional rights have been violated. I want to go directly to Circuit Court. I'm tired of being harassed by EPSB as a way to protect the real retaliation and harassment by JCPS.."

On or around September 4, 2022, Johnson released Strause as her attorney and wrote the following: "Would you also send the documentation (email or letter) of you requesting a 13b hearing on my behalf?" Strause did not provide such documentation.

On or around October 17, 2022, Johnson received a Notice of Hearing from EPSB.

Also, on or around October 17, 2022, Johnson noticed that it was filled with false information including, but not limited to the date of when the Board met; the vote for Johnson's case number to be referred to a hearing according to the original October 10, 2022 Board minutes; missing date and time of the hearing, and the name of the hearing officer; missing procedural history; false, omitted, suggestive, speculative and misleading information in the statement of facts and issues; charges were added from the lawsuit but never mentioned on the proposed agreed orders and/or the March 2, 2020 superintendent's report; false reports made by various JCPS personnel and staff; and absence was Johnson's fact substantiated evidence, which EPSB should have had from Johnson's rebuttals provided to EPSB, the superintendent's report, Johnson's JCPS personnel files, and/or the lawsuit documents; about twenty-nine charges were listed from EPSB which some of them were duplicated to further denigrate Johnson's professional reputation.

Also, the Notice of Hearing received by Johnson on or around October 17, 2022 contained the following sanctions: permanently revocation of Johnson's school

counselor and principal certificates; all other certificates were to be suspended for 60 days; comprehensive health evaluation by a certified/licensed physician as approved by the Board; nine hours on educator ethics, micro-credentialing on cooperating teachers, three hours on confidentiality, which were all to be completed by October 15, 2022 (two days before Johnson received the notice); five years probation; and requirement to see a licensed/certified physician and licensed/certified neurologist by January 1 and August 1 every year she is employed to ensure that she is physically and mentally fit to return to the classroom, presents as capable of performing her duties as an educator; is not a danger to herself or others; and is compliant with all treatment recommendations.

Also, the Notice of Hearing's certificate of service indicates that this notice was sent to the Office of the Attorney General and mailed to Johnson on October 14, 2022.

The Notice of Hearing was sent to Johnson's employer, JCPS.

On or around October 19, 2022, Johnson received in the mail a Notice of Assigning Case, which revealed to her the name of the assigned hearing officer, George Seay. Also, a pre-hearing was scheduled for December 9, 2022 at 11:00 am and instructions were provided such as but not limited to providing a preferred phone number for the telephonic pre-hearing and the taking of evidence.

On December 9, 2022, the pre-hearing was held telephonically at approximately 11:00 am. In attendance were George Seay, Hearing Officer; Cody Hollan, EPSB Attorney; and Kimberly Johnson, the Respondent.

Also, at the pre-hearing, Hollan states that the Petitioner is requesting that a final hearing date be set.

Johnson asks if the Hearing Officer had received her evidence provided via about 45 minutes prior to the pre-hearing. The Hearing Officer stated that he had not received it.

Also, at the pre-hearing, Johnson requests a public hearing, and Hollan requests to set all dates including but not limited to witness/exhibit lists as he states that he plans to file "... multiple, dispositive motions, for example, motion in limine to exclude certain evidence."

In addition, at the pre-hearing the Petitioner, Cody Hollan laughed at the witnesses and evidence Johnson provided prior to the pre-hearing, and stated that he "...ntends to file a motion in limine regarding...those witnesses to exclude most of them...if not all."

Furthermore, at the pre-hearing on December 9, 2022, the hearing was scheduled for June 27th - June 30th; however, Hollan wanted the witness and exhibit lists filed early in May, so the Hearing decided by May 10, 2023; motion in limine due by May 24, 2023; replies due by June 7, 2023; dispositive motions due by January 10, 2023; replies to dispositive motions due by January 31, 2023; replies by February 7, 2023; and oral arguments on February 20, 2023.

Around 24:51 on the recording of the pre-hearing on December 9, 2022, the Hearing Officer states the following: "Ok, motions in limine are motions that would resolve the entire case without going to a hearing. It would be resolved on a legal basis, Uh, I'm..we're setting if you have any of those motions to file. They need to be filed by January 10th.."

Also, at the pre-hearing, the Hearing Officer and the Petitioner decided when discovery and discovery responses were due. Around 30:58, Johnson asks about the 13B:050 and how that has been violated in this case. The Hearing Officer's response included but was not limited to, ".as a practical matter if a date is set then just like we've had did today it would have to be changed any number of times. Uh, so, we've set an initial pre-hearing status conference and then the notice the formal hearing is scheduled at this time. It's a practical matter."

Around 32:26, the Hearing states that there would be an order provided with these dates on it. This order was never provided.

Johnson spent almost her entire winter vacation (from on or around December 19 - December 30) working on the motion with all of the evidence put together regarding her case with EPSB. Johnson would complete this "Final Motion" on or around Friday, December 30, 2022, and serve it to the Hearing Officer and the Petitioner, Cody Hollan via email. Neither one would acknowledge receipt of the email containing "Final Motion".

On or around January 8, 2023, Johnson reached out to Cindy Stinnett via email to inquire about receipt. Stinnett did not respond until on or around January 10, 2023.

Johnson firmly believed that the comprehensive and compelling "Final Motion" presented an abundance of evidence to establish her innocence and substantiate the numerous violations she had endured, encompassing civil rights infringements and beyond.

The Petitioner made a motion for partial summary judgment on or around January 10, 2023.

On or around January 14, 2023, Johnson filed a complaint against the Kentucky Department of Education concerning allegations of retaliation.

On or around January 31, 2023, Johnson sent via email the following to the Hearing Officer, Petitioner, and Dr. Jason Glass, KDE's Commissioner of Education the following: "I am no longer responding nor acting as if Case #20-03725 was voted by the EPSB to go to a 13B hearing because it has not been."

Also, on January 31, 2023, Johnson would submit another email to the same recipients as above which included but was not limited to EPSB Minutes from October 10, 2022, and the Notice of Hearing sent to Johnson on or around October 17, 2022. In these exhibits, Johnson had visually marked the violations.

Also, on or around January 31, 2023, the Petitioner submitted, "PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS WITH PREJUDICE AND TO ABSOLVE THE RESPONDENT'S OFFICIAL FILES AND EPSB FILES OF ANY EVIDENCE OF THESE CHARGES".

This was in response to Johnson's Final Motion submitted via email on December 30, 2022. The Petitioner submitted this response beyond the 30 day period.

In this motion submitted on January 31, 2023, the Petitioner stated that the "...Respondent's [Johnson's] procedural arguments lacked merit" because of "...KRE 408 provides that settlement negotiations are generally not admissible"; "...Respondent's claim of a delay is meritless because the case was held in abeyance due to Respondent's civil case against JCPS and EPSB cases are not bound by a statute of limitations. See *Mann v. EPSB*, 2009 WL 1811097, *4 (Ky. App. 2009)"; the Respondent had received proper notice Respondent has received proper notice in this case and had the opportunity to submit multiple rebuttals and she submitted hundreds of pages in response to the allegations; the October 10, 2022 minutes included a clerical error; and the Respondent's remaining arguments are nonsensical, conspiratorial, and irrelevant."

Also, in the Petitioner's motion was that summary judgment was appropriate because according to the Petitioner, the Respondent admitted wrongdoing and has only engaged in excuses, blaming others, etc., which the Petitioner cited *Young v. White*, 551 S.W.2d 12 (Ky. App. 1977) and *Papa John's Intern., Inc. v. McCoy*, 244 S.W.3d 44, 50 (Ky. 2008).

The Petitioner continued and stated, "...Pursuant to KRE 401, relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence

to the determination of the action more probable or less probable than it would be without that evidence.”

Also, Petitioner stated, “Respondent lacks an understanding of the scope of the facts related to the charges that initiated this proceeding”, and “...Respondent provided a list of excuses, conspiracies, grievances she has with JCPS and her former colleagues, hearsay, and other irrelevant information. Consequently, the facts Respondent proffered regarding the conduct of her colleagues that she believes violates ethics and her grievances with JCPS are inadmissible because the facts are not relevant pursuant to KRE 401.”

Furthermore, the Petitioner stated, “There are no facts in the record to support Respondent’s contention that she was threatened or coerced. Petitioner has only communicated with Respondent through counsel and has never spoken directly to Respondent.”

On or around February 2, 2023, the Hearing Officer’s docket coordinator sent an email acknowledging receipt of the Petitioner’s motion.

On or around February 13, 2023, Johnson comes to the knowledge by reading the February 13, 2023 EPSB Board agenda or by way of watching it on Youtube that EPSB has decided to revise their October 2022 minutes. Johnson realizes that Hollan had taken information obtained from her Final Motion to go back and attempt to make changes and/or have changes made to the EPSB Board Minutes dated October 10, 2022.

Oral arguments were scheduled for February 20, 2023, and it started about 30 minutes late. Present at the telephonic meeting was George Seay, Hearing Officer; Collan Hollan, Petitioner; and Kimberly Johnson, Respondent.

Around 55 seconds into the telephonic meeting on February 20, 2023, Johnson expresses how she provided “tons” of evidence and it has just been “ignored”.

Around 2:23 minutes into the meeting, the Hearing Officer stated that he could not rule based on a “motion”, but rather a “formal record” was required.

Johnson responds that she has sent that in (referring to the Final Motion).

The Hearing Officer then makes the following statement: “Well, you’ve sent in, but it needs to be in front of a hearing so we’ll have a formal record and testimony is correct

and Mr. Hollan has an opportunity to rebut it. That's what you want to have if you want to have the hearing. We can schedule the hearing and just go forward with it. You've requested that the case be dismissed and based on the information that you've supplied, it raises the legal standard that there cannot be any material questions of fact, which are an issue that a final order can be recommended or issued, uh, prior to..the taking of evidence at the hearing, so I would have to deny your motion for summary disposition. We can set it for hearing and then everything can come out and be in in the record [inaudible] if that's what you want."

Johnson affirms that she does want everything to come out, and she reminds him that a hearing has already been set.

Hollan asks the Hearing Officer about the partial summary judgment and the Hearing Officer replies with, "Because I think there are substantial questions of law, substantial question of fact that needs to be brought out and put on the record and we can make a decision based on it all once the record is complete. Alright, so I'm just going to deny everybody's partial motion and we can just go from there."

Around 5:18 into the telephonic meeting, the Hearing Officer says, "... wait a minute before we get off the phone here. Ok, what I have, uh, I have witness and exhibit lists need to be filed by May 10th 2023 and uh, Dr. Johnson for your information, you need to write just a brief summary of what your facts are going to be and list the witnesses that you will intend on calling and a brief and I mean brief just a couple of sentences, two or three sentences, statement of what you anticipate they will testify to and then a list of the exhibits that you intend to produce at the hearing and basically describe what those exhibits are just very briefly. You know a sentence or two."

Also, on or around February 20, 2023, after informally notifying special education teachers and coaches that a student needed services, Johnson decided to formally notify by asking and completing a referral form.

Johnson receives an order from the Hearing Officer on or around February 23, 2023 with all of the deadlines listed.

On approximately February 27, 2023, Johnson engaged in a conversation with an attorney from Lexington who informed her that, given the intricate nature of the case, he would require a fee of \$10,000 to provide legal representation.

On or around February 28, 2023, Hollan sent Johnson a letter, proposed agreed order, and a list of Board approved training via email.

This said proposal allowed for Johnson to maintain her innocence; deny any wrongdoing; admit that the evidence could find that she violated statutes; surrender her school counselor certificate; attend several trainings, and five years probation.

Also, on or around February 28, 2023, Johnson sent an open records request to JCPS, specifically requesting: "...I would like any documents, reports, rebuttals, or any other such sent to EPSB from Superintendent or designate from 2018 to February 2023."

On or around March 1, 2023, Johnson submitted an open records request to the Kentucky Department of Education (KDE), specifically Todd Allen. Requesting primarily any documents between Johnson's legal counsel and EPSB along with some other documents pertaining to her EPSB case.

On or around March 2, 2023, Johnson received a reply from JCPS with the following: Dr. Johnson, We do not maintain a record of all reports sent to the EPSB. Your best course of action to obtain all records sent to the EPSB would be to file a request with the EPSB for all records in their possession related to you... You can request records from the EPSB by sending an Open Records request to Todd.Allen@education.ky.gov or to Todd G. Allen Kentucky Department of Education 300 Sower Boulevard, Fifth Floor Frankfort, Kentucky, 40601.

On or around March 3, 2023, Johnson rejected a proposed agreed order dated February 28, 2023.

On March 6, 2023, Hollan writes to Johnson: "Do you have a counteroffer? Can you explain why you are not interested? It would help to know the reason so we can attempt to work on coming to an agreement."

Also, on March 6, 2023, Johnson responds with: "If the only way to get the truth on record is by a 13B Hearing, then that is the best option for me."

Continuing on March 6, 2023, Hollan replied: "Would you accept the terms of the Agreed Order if you were given the opportunity to attach a rebuttal/statement to the Agreed Order?"

Johnson replies, "No, I would not."

Hollan writes: "To narrow the scope of the facts, would you agree to stipulate to the following: "Dr. Johnson returned a shaving razor confiscated by staff to an elementary-aged student. Dr. Johnson was very aware that the student referenced

above had previously made comments about self-harm on several occasions. Dr. Johnson was the 504 Plan Chair for Maupin Elementary. As 504 Plan Chair, she was responsible for initiating the implementation of 504 Plans for students at Maupin. Dr. Johnson did not implement a 504 plan for a student she was aware was absent due to sickle cell anemia. Dr. Johnson received two requests from Principal Kimbrough to follow-up with the parent regarding implementing a 504 plan. The student's special education services were denied and delayed for months. On January 13, 2020, Principal Kimbrough sent Johnson an email stating the following: "Hello Dr. Johnson, Mom was wondering if you could follow back up with her at your earliest convenience regarding scheduling the 504 plan meetings." On February 5, 2020, Dr. Baily sent an email stating the following: "If the student is in need of accommodations and you don't know the outcome of the evaluation, you may want to consider a 504 plan in the meantime." On February 19, 2020, Principal Kimbrough sent an email to Dr. Johnson stating the following: "Hello. I wanted to follow back up to check on the status of the student's 504 Plan? Thank you in advance!" On or around February 25, 2020, other faculty members held a 504 meeting to provide the student with a 504 plan. The student had 31 or more unexcused absences due to a medical condition. The unexcused absences resulted in the denial of the opportunity for the student to do make-up work resulting in low grades. A 504 Plan would have provided accommodations for the student to avoid absences and/or assist the student with school work she missed. On September 27, 2019, Dr. Johnson discussed implementing a 504 plan for the student with the student's mother."

Johnson wrote: "Mr. Hollan, I appreciate your effort to narrow the scope of facts related to my case; however, I must respectfully decline your request to agree with the statements you have presented outside of a hearing. As a professional, I take my ethical and legal obligations seriously and cannot verify information that may be taken out of context or inaccurate. I would prefer that any statements or evidence be presented in a transparent and fair manner during a hearing. I trust that you will respect my position on this matter and refrain from any further attempts to entrap me. Thank you for your understanding."

Hollan wrote: "Dr. Johnson: Those are statements from your motion to dismiss. Did you make false statements in your motion to dismiss or are you retracting what you previously put in a motion? Will you agree to allowing depositions by written questions being entered as testimony of witnesses in lieu of having them appear at the hearing? I have to ask you because the hearing officer will likely ask later if we attempted to narrow the scope of the hearing. If you had an attorney, I would ask them the same questions."

Also, on March 6, 2023, Johnson replied with: No, I would want witnesses to appear in-person or by Zoom during the hearing for questioning... I will work on narrowing my witness list by the May 10th deadline.”

On or around March 9, 2023, Johnson was denied access to records pertaining to her EPSB case via an open records request sent to KDE via email.

On or around March 15, 2023, Johnson was specifically inquiring about weapons reported from Maupin Elementary in December 2019 and the list of Safe Crisis Management trained staff, which was required to be reported to the state due to JCPS being under a corrective action plan during the 2018-19 and 2019-20 school years. Also, required reporting surrounding weapons in school.

On or around March 15, 2023, KDE provided two incidents reported by Maupin administrators in December 2019. While they provided the dates of the incidents, they omitted the reporting dates of the incidents.

On or around March 22, 2023, KDE claimed that they were not in possession of any of the records that Johnson requested.

On or around March 28, 2023, KDE denied that they were in possession of any of the records Johnson requested, but indicated that JCPS would have some of the records.

On or around late March, Johnson inquired about the referral she submitted in February. A meeting is scheduled for April.

During the first week of April, Johnson was off from work due to spring break, and she spent the entire week working on this EPSB case.

On or around April 3, 2023, Johnson sought advice from an attorney who advised her that the settlement agreement for the lawsuit should not have been signed until the resolution of Johnson's EPSB case had been finalized.

Furthermore, the attorney disclosed to Johnson that if she were to apply for positions such as counselor or other leadership roles, and she did not receive a promotion, JCPS could potentially attribute the decision to her ongoing EPSB case. This, the attorney explained, would serve as a valid justification for Johnson's lack of promotion.

Following the EPSB Board Meeting on April 10, 2023, the February 13, 2023 Minutes were not released in the customary manner as expected.

On or around April 15, 2023, it was discovered that the student Johnson referred for special education was already in special education, but his student record was not examined at the beginning of the year. This student did not receive special education services for at least 140 school days.

Around this same time, two other Westport students are discovered to have been “missed” for their special education services for almost an entire school year.

Also, around this same time, a student would have been denied counseling as a related service for more than three months.

On or around April 17, 2023, Maupin’s Family Resource Coordinator, John Custis, allegedly penned a student against a wall in an improper restraint. Witnesses state that the student kept saying he could not breathe, but Custis allegedly stated, “I see you breathing”. When Custis released the student, he fell to the ground seeming to momentarily become unconscious for a few seconds, and then he coughed excessively creating a pool of phlegm. Based on what witnesses stated, the whole incident happened in the hallway and was recorded on the camera.

On May 10, 2023, as according to the verbal orders and written orders of the Hearing Officer, Johnson submitted her witness and exhibit lists at 3:57 PM to the following: Hollan, EPSB, and the Attorney General Office Hearings (Cindy Stinnett).

Also, on May 10, 2023, after 8:00 PM, Hollan submitted the Petitioner’s witness and exhibit lists along with the actual exhibits.

On May 11, 2023, Stinnett replied, “Received. Thank you.”

Also on May 11, 2023, Hollan wrote: “ Dr. Johnson: I did not receive your exhibits. You may have accidentally left them off your email yesterday. Will you be sending them today? Thank you,”

Johnson replied, “Based on the Hearing Officer’s orders, we were to submit witness and exhibit lists not actual exhibits.”

Then, Hollan asked: "Hearing Officer Seay: Can you clarify whether the parties in EPSB vs. Kimberly Johnson was to exchange exhibits by the May 10, 2023 deadline? Thank you,"

Johnson forwards the orders from the Hearing Officer dated February 20, 2023.

Also, on May 11, 2023, the Hearing Officer replied with: "Good afternoon. I have been away from the office this afternoon and have just recently reviewed your emails and filings. It is obvious that we will need an additional prehearing to hash out the process going forward, including witness and exhibit issues. I will say that typically the exhibits, witness lists, including proposed testimony and address are usually exchanged with the filing of the witness lists. I did not specify that in the order so I will correct that now. I wish you each to provide three days and times within the next week so we can have a telephonic conference to discuss the process going forward. If you can agree on a date and time I will do all I can to accommodate your agreement. I will be unavailable Tue afternoon, May 16th, Wed afternoon, May 17th, will be available after 2:00pm Monday May 15th, and Thursday May 18th."

Also, on May 11, 2023, Johnson replied with: "Hi. I am available these three times and dates: -Monday, May 15th (anytime after 2:30); -Thursday, May 18th (anytime after 2:30); -Friday, May 19th (anytime after 2:30)..."

On May 12, 2023, the Hearing Officer stated: "I am now also available this afternoon after 1:00."

Also, on May 12, 2023, Hollan writes, "I am available this afternoon and at the times listed by Dr. Johnson."

The Hearing Officer then writes: "Ms. Mucker-Johnson, If you are available this afternoon lets have our call at 2:30. If not then let's have the call at 2:30 on Monday aft. Please let me know as soon as you can. Thank you all for your attention to this matter."

Since Johnson was at work, she did not see the email until after 12, and replied: "Yes, I'm available today at 2:30 pm."

Within about five minutes, the Hearing Officer replied, "Thank you. I will call at 2:30 today."

Then, about 20 minutes later, the Hearing Officer wrote: "Please make sure I have the phone number where you can be reached this afternoon. Thank you."

Also, on May 12, 2023, another pre-hearing was held telephonically that was scheduled on May 12, 2023. In attendance was George Seay, Hearing Officer; Cody Hollan, Petitioner; and Kimberly Johnson, Respondent.

During this pre-hearing, the Hearing Officer tells Johnson that she is not an attorney, but it is customary when an exhibit list is submitted that it contains the actual exhibits.

Also, during the pre-hearing dated May 12, 2023, contextual and background information came up regarding Johnson's discrimination, retaliation, whistleblower, and hostile working environment lawsuit as all of EPSB's charges are based on the reasons that Johnson led to the lawsuit and then later amended the lawsuit.

Both the Hearing Officer and Hollan both made comments about how Johnson could not include evidence from her lawsuit as it was not relevant. For example, the Hearing Officer stated that Johnson would not be allowed to establish that the disposable razors were not weapon treated like a weapon prior to December 9, 2019. Nor was Johnson going to be allowed to discuss how disposable razors are not treated as weapons by Transportation Security Administration (TSA) as you can board a plane with a disposable razor in your carryon luggage. This information was determined at this pre-hearing to be irrelevant.

The Hearing Officer made the statement that it is "always" unacceptable to return a "razor" to a student with a "proclivity to self-harm."

Johnson inquired at this pre-hearing how it was equitable for the Petitioner to be about, according to their witness list, to keep their witness lists revolving or in other words, the Petitioner were able to add witnesses whenever they wanted. The Hearing Officer stated that this was allowable.

Also, stated at the pre-hearing on May 12, 2023 was that Johnson's witness list, even though it had decreased from 33 (pre-hearing on December 9, 2022) to about 16 (pre-hearing on May 12, 2023), was too many and irrelevant.

When Johnson mentioned that she was told by an attorney that if she needed to appeal the final decision made by EPSB, Franklin Circuit Court would only entertain the evidence and witnesses entered at the EPSB Hearing.

The Hearing Officer verified that this was true.

The Hearing Officer mentioned that he would provide subpoenas for the hearing. Hollan stated that we did not need them at this time. Johnson wanted them for her witnesses. The Hearing Officer stated that he would provide the subpoenas.

Johnson believed that she had made a significant and potentially costly mistake by only sending the witness and exhibit lists rather than the actual exhibits by the May 10, 2023 deadline. Johnson asked for additional time to get the actual exhibits submitted. Johnson specifically asked to have the actual exhibits submitted electronically by May 16, 2023.

A pre-hearing order was sent on May 12, 2023 via email by the Hearing Officer's docket coordinator, Cindy Stinnett. The pre-hearing order included but was not limited to "...the parties agreed that all exhibits proposed to be introduced at the hearing in this matter shall be exchanged on or before the close of business on the 16th day of May, 2023. All other orders herein remain in effect.

Johnson did not read the order on that day.

On or around May 12, 2023 to May 16, 2023, even through Mother's Day, Dr. Johnson worked feverishly to upload documents including audio and video recordings. It proved to be more extensive and voluminous than could be handled by one person, especially within a four or five day window as the Petitioner had added on witnesses and new evidence, so Johnson needed to ensure that she presented a defense against these additions.

It was during this time period that Johnson discovered there had been a second Superintendent's report submitted to EPSB dated September 4, 2020. Johnson added this information to her exhibits had been left out by EPSB throughout this entire process; however, the contents including but not limited to the allegation of Johnson failing to complete a 504 plan was included in the case.

Johnson also consulted with multiple special education teachers and organizations showing them the redacted documents of the student from Maupin, and Johnson was able to ascertain as she had suspected that this whole ordeal had been fraudulent since the beginning. Specifically, but not limited to, the district withholding the doctor's statement from Johnson from August 2019 until around February 2020.

On or around May 16, 2023, Johnson also discovered the proof that she had filed rebuttals at the district, state, and EPSB levels that had been removed from her EPSB case file.

These things further supported Johnson's belief that she was being retaliated against and harassed.

On May 16, 2023, although off from work but unable to vote due to needing to submit exhibits, Johnson noticed that she was running out of time. Johnson read over the May 12, 2023 pre-hearing order and noticed that it mentioned "...on or before the close of business".

Johnson sent an email to the Hearing Officer and Petitioner requesting until 11:59 pm, especially since past practice, specifically May 10, 2023, the Petitioner had not submitted his witness and exhibits until after 8:00 PM.

No one responded to Johnson's email, so Johnson delivered the exhibits she had ready by around 5:00 pm, and stated that she would continue to work until 11:59 PM.

On May 16, 2023 at 11:09 PM, Johnson submitted her final actual exhibits digitally as they had been submitted throughout this process

Also, on or around May 16, 2023, on or around 8:07 PM, Johnson submitted an affidavit via email to several recipients including: the Hearing Officer; Jason Glass, KDE Commissioner of Education; Byron Darnall, Associate Commissioner; and Educator Ethics.

The affidavit, submitted May 16, 2023, included but was not limited to, reasoning based on 13B.050 as to why the Hearing Officer should recuse himself.

On May 17, 2023 at 8:39 AM, the Hearing Officer responded to Johnson's request on May 16, 2023, for additional time to upload exhibits. His response was, "That is fine".

Also, on May 17, 2023 at 8:52 AM, Cindy Stinnett wrote: "Ms. Johnson, Please provide the actual exhibits. We are unable to save the 'link' as the exhibit and I am unable to open the links. You may need to separate them across multiple emails if the files are too large to send as one. Send as many emails as you need to get them all to us. Thank you, Cindy Stinnett"

Furthermore, on May 17, 2023, at 9:24 AM, in response to the affidavit, the Hearing Officer conveyed a brief acknowledgment by email to the docket coordinator, Cindy Stinnett, as well as Hollan and Johnson, stating simply, "fyi."

Johnson added the Hearing Officer, Hollan, and EPSB Educator Ethics and responded on May 17, 2023 at 3:44 PM: "Ms. Stinnett: I don't understand why the links are not opening as I have enabled all of the links to share with anyone who has the link. It is impossible for me to send the exhibits by email as some of the files will not go due my limit for attachments (25 mb), and there are 20 audio and video files. Therefore, I can only save them all to a flash drive and mail them to you which is going to be time consuming. Currently, my students are taking the state tests, so I am unable to take off from work at this time. Therefore, I would need a new order granting me until at least this time next week to get a flash drive for you. Please advise me how to proceed."

On May 17, 2023, at 3:47 PM, Cindy Stinnett wrote: "The Hearing Officer will have to decide on a date. All I can tell you, is that I am unable to open the links. It's likely a safeguard with our state network. Cindy Stinnett".

On May 18, 2023 at 9:14 AM, the Hearing Officer responded with: "Mr. Hollan? Do you have an objection?"

Holland replied on May 18, 2023, at 12:40 PM with the following: "Yes, I object. Dr. Johnson has missed the extended deadline to provide her exhibits in an appropriate format. Moreover, I will be objecting to the exhibits presented by Dr. Johnson in a motion in limine as the exhibits were not submitted by the ordered deadline and are irrelevant..Dr. Johnson has filed for a request for disqualification pursuant to 13B.040 and claims a personal bias exists. How would you like to proceed with her request for disqualification pending?"

Also, on May 18, 2023 at 1:02 PM, the Hearing Officer stated this via email: "You should file a response to the motion to recuse and we will hear it and the motion to file exhibits late at the same time. I will call everyone at 9:30 on Tues the 23rd of May."

On May 18, 2023, at 1:23 PM, Johnson replied: "I am not available at that date and time because I will be at work."

Also, on May 18, 2023, at 2:04 PM, the Hearing Officer wrote the following in the email: "Attached please find an order re the pending motions."

Then, on May 18, 2023, at 2:42 PM, the Hearing Officer issued another order as the previous one had the following at the end: "SO ORDERED this the 12th day of May, 2023". Both stated the following: "This matter came before the hearing officer by based upon a series of emails concerning the exchange of exhibits by the parties. The Respondent again requested additional time to serve exhibits and witness lists and

copies of same in a usable format, the Petitioner objected. The Respondent has also moved the hearing officer to recuse himself because of bias. The hearing officer scheduled a hearing on these motions but the Respondent claims to be unavailable. Therefore, the Petitioner may have until May 24, 2023 to file responses to the two pending motions. The matter will stand submitted at the close of business on that date. The date to file motions in limine shall be extended until May 31, 2023 and responses due June 9, 2023. The final prehearing and hearing will remain as scheduled. Failure to comply with orders of the hearing officer or procedural requirements may result in the entry of a default order against the offending party. All other orders remain in effect.”

On May 18, 2023, at 2:57 PM, Johnson wrote to the Hearing Officer, Hollan, Stinnett, and EPSB Educator Ethics or Leah Sharpe: “Hi. I still haven’t received the subpoenas for the witnesses. It was stated on the phone conference on Friday, May 12, 2023 that I would get subpoenas for my witnesses. Thanks.”

Although Cindy Stinnett was one of the recipients of the email, on the same day at 2:59 PM, the Hearing Officer wrote: “Please contact Cindy Stinnett.”

So, on the same day at 3:03 PM. Johnson replied to all of the above recipients with: “Hi, Ms. Stinnett. I am in need of subpoenas for this hearing. Would you advise how I can get those? Thank you in advance.”

On May 18, 2023, at 3:26 PM, the Hearing Officer wrote: “Cindy is out and will not be back till Monday.”

On May 19, 2023 at 11:35 AM, Hollan wrote: Ms. Trueblood: “Please find attached an affidavit of recusal from Dr. Johnson regarding EPSB case no. 20-03725 as well as EPSB’s response. We are requesting a decision by the agency head pursuant to KRS 13B.040(2). We request a decision by July 14, 2023.”

The attachment on the above email was a response to Johnson’s affidavit. The response Included, but limited to, the following:” ..Respondent claims that the Hearing Officer has a personal bias against her because she fails to comprehend the process; ..Any assertion that occurred is unequivocally false and outrageous; ...Respondent’s failure to understand the purpose of a prehearing conference has led her to belief that there was a procedural irregularity. The Hearing Officer has the discretion to issue orders that regulate the course of the proceedings; ...Respondent will have an opportunity to provide a written argument that the documents related to her lawsuit against JCPS are relevant; ...The Hearing Officer expressly stated that he was not making any rulings on the subject until after the presentation of relevant evidence. Even

if the Hearing Officer made that statement, it would not be evidence of a personal bias against Respondent as any reasonable person would share that opinion.”

On May 19, 2023, Cassie Trueblood, [EPSB] Policy Advisor and Counsel, responses with: “Mr. Hollan, Thank you. The affidavit and response have been received.”

On May 22, 2023, Stinnett wrote: “I will send them today. My apologies for not setting my ‘out of office’ for Thursday and Friday. Thank you. Cindy Stinnett”

On this same day, Stinnett followed up with a second email containing the subpoenas.

On May 22, 2023, Johnson made an online discovery revealing that the Hearing Officer, George Seay, is both a member and partner at Wyatt Tarrant & Combs. It is worth noting that Wyatt Tarrant & Combs is the same law firm that provided legal counsel to JCPS in the previously settled lawsuit, Johnson vs. JCBE, involving allegations of discrimination, retaliation, whistleblower retaliation, and a hostile work environment.

Finally, on May 29, 2023, Johnson took a significant step by filing a formal complaint with the U.S. Department of Justice, bringing attention to the numerous improprieties she had experienced throughout the process. This complaint outlined various concerns, including but not limited to potential criminal activities that may have been involved in the procedures conducted by JCPS and EPSB. By taking this action, Johnson sought to shed light on the injustices she had faced and to seek appropriate recourse for the violations she had endured.

Exhibits

Exhibit Number	Exhibit Links	Exhibit Description
A	<ul style="list-style-type: none"> ● A1: EPSB - April 8, 2020 ● A2: EPSB - June 18, 2020 ● A3: EPSB - October 26, 2020 <ul style="list-style-type: none"> ○ Email with attachment ● A4: EPSB Correspondences with Respondents’ Attorneys: <ul style="list-style-type: none"> ○ Marilyn Shrewsbury - Emails, Emails2 <ul style="list-style-type: none"> ■ May and June 2022 <ul style="list-style-type: none"> ● Agreed Order - 5/25/22 ● Agreed Order - 5/26/22 Draft 2 ○ John Landon - Text Messages, Emails, and Emails <ul style="list-style-type: none"> ■ July 2022 <ul style="list-style-type: none"> ● Agreed Order - 7/12/22 	EPSB letter and documents sent to Johnson

	<ul style="list-style-type: none"> ● Motion to Strike ● Agreed Order - 7/14/22 ○ Randall Strauss - Emails 1, Emails 2, Emails 3 <ul style="list-style-type: none"> ■ Attachment #1 <ul style="list-style-type: none"> ● https://www.rightslitigation.com/practice-areas/constitutional-rights/first-amendment-retaliation/ ● https://cdn.ymaws.com/www.kybar.org/resource/resmgr/2015_Convention/Administrative_Law.pdf ○ Johnson, representing herself <ul style="list-style-type: none"> ■ Proposed Agreed order dated 2/28/23 ● A5: Notice of Hearing ● A6: Notice of Assigning Case ● A7: Pre-Hearing Order - February 20, 2023 ● A8: Hollan Emails, Offer Letter, and Agreed Order - 2/28/23 ● A9: EPSB Minutes <ul style="list-style-type: none"> ○ April 13, 2020 ○ June 15, 2020 ○ September 2, 2020 ○ October 12, 2020 ○ December 14, 2020 ○ February 8, 2021 ○ April 26, 2021 ○ June 21, 2021 ○ August 16, 2021 ○ October 11, 2021 ○ December 13, 2021 ○ February 14, 2022 ○ April 11, 2022 ○ July 11, 2022 ○ August 15, 2022 ○ October 10, 2022; October 2022 (Revised Minutes) ○ December 12, 2022 ○ February 13, 2023 Agenda ● A10: L'Tanya White <ul style="list-style-type: none"> ○ April 11, 2022 ○ October 11, 2021 ● A11: JCPS Open Records Request on EPSB Reporting ● A12: May 2023 Emails and Documents 	
B	<ul style="list-style-type: none"> ● B1: Johnson's Rebuttal (included in the EPSB Letter dated April 8, 2020) <ul style="list-style-type: none"> ○ ● B2: Additional Rebuttal provided to JCPS on February 29, 2020 ● B3: Attorney Email and EPSB Rebuttal on May 7, 2020 ● B4: Attorney EPSB Rebuttal on November 23, 2020 	Rebuttals Johnson sent to EPSB

	<ul style="list-style-type: none"> ○ Johnson attachment ● B5: Pre-hearing Conference Evidence ● B6: Final Motion ● B7: Audio-recording of Pre-hearing Conference 12/9/22 <ul style="list-style-type: none"> ○ Abridged Transcription 12/9/22 ● B8: Audio-recording of Pre-hearing Conference 2/20/23 <ul style="list-style-type: none"> ○ Abridged Transcription 2/20/23 ● B9: Johnson's Affidavit 	
C	<ul style="list-style-type: none"> ● C1: Johnson Office of Civil Rights Reporting (updated 5/25/23) ● C2: Discrimination Reporting ● C3: Union Reporting ● C4: Johnson's Lawsuit Against JCPS - May 2019; Johnson's Amended Lawsuit - May 2022 	Reporting by Johnson
D	<ul style="list-style-type: none"> ● D1: EPSB Reporting and Other Reporting <ul style="list-style-type: none"> ○ Marty Pollio ○ Nate Meyer ○ Charita Kimbrough, 1 2 ○ LaTonya Rollerson ○ Katherine Stoltz <ul style="list-style-type: none"> ■ Other Reporting of Stoltz ○ Andrew Bailey ○ James Hughley ○ Jimmy Adams 1 2 ○ Kim Wagner ○ Maria Holmes ○ Georgia Hampton ○ Jason Glass ○ National Labor Board Reporting ○ Centerstone ○ Letter to Governor Beshear and Lt. Governor - faxed 7/20/22 ● D2: Email - No Discipline of the Educators reported ● D3: EEOC <ul style="list-style-type: none"> ■ Appendices ■ Reporting ● D4: JCPS <ul style="list-style-type: none"> ○ John Custis Personnel File 	Additional Reporting by Johnson
E	<ul style="list-style-type: none"> ● E1: Aimee Green-Webb - December 29, 2017 ● E2: Audio-Recording November 16, 2018 ● E3: Audio-Recording - April 29, 2019 ● E4: Audio-Recording - November 27, 2018 ● E5: Audio-Recording - October 19, 2018 ● E6: Zoom Meeting - July 7, 2020 ● E7: Dr. Newman Voicemail - August 2018 ● E8: Kimbrough Meeting - May 12, 2020 ● E9: Audio-Recording -Kimbrough Observation Meeting - 	Audio and Video recordings of meetings

	<ul style="list-style-type: none"> ● April 14, 2020 ● E10: Audio-Recording - May 2019 ● E11: Holmes Observation Meeting - May 8, 2019 ● E12: Holmes Meeting - May 15, 2019 ● E13: Compliance and Investigation Call - December 18, 2018 ● E14: Meeting with Sircy - November 20, 2018 ● E15: Holmes Observation Meeting - April 19, 2019 ● E16: Wagner Grievance Meeting - April 18, 2019 ● E17: Phone Conversation - February 2022 ● E18: Due Process and Discipline Meeting - April 10, 2019 ● E19: Audio-recording of Various Maupin Parents and Staff concerning child abuse at Maupin ● E20: Dr. Pollio and Gay Adelman 	
F	<ul style="list-style-type: none"> ● F1: Johnson's rebuttal sent to JCPS to be attached to E-2 in personnel file - November 15, 2018 ● F2: Johnson's rebuttal sent to JCPS to be attached to E-2 in personnel file - November 16, 2018/November 19, 2018 ● F3: Johnson's Rebutttal February 1, 2019 ● F4: Johnson's rebuttal to Compliance and Investigations 03/16/19 ● F5: DEAP July 2019 ● F6: Rebuttal - December 20, 2019 ● F7: Kimbrough - Appeal Response - March 13, 2020 ● F8: Johnson - Level 1 Appeal - March 17, 2020 ● F9: Nate Meyer - Appeal - March 18, 2020 ● F10: Shrewsbury - Email Complaint - April 20, 2020 ● F11: Johnson -Meeting - May 5, 2020 ● F12: Rebuttal - May 12, 2020 ● F13: E2 and Evaluations ● F14: Complaint Response from the District Email Exchange <ul style="list-style-type: none"> ○ Complaint Response Written Reprimand 504 ○ Complaint Demotion Decision 3 	Rebuttals Johnson submitted to JCPS
G	<ul style="list-style-type: none"> ● G1: Audio-Recording of Parent 1 ● G2: Audio-Recording of Parent 2 ● G3: Parent Threat 	Parent threatened Johnson
H	<ul style="list-style-type: none"> ● H1: 504 Student ● H2: 504 Paperwork ● H3: 504 Guidebook ● H4: 504 Guidebook 2 ● H5: https://www.kydose.org/eligibility 	Student and 504
I	<ul style="list-style-type: none"> ● I1: Labor Management and Employee Relations Guide ● I2: Student Support and Behavior Interventions Handbook 	Policies
J	<ul style="list-style-type: none"> ● J1: Kim Wagner Grievance 	Grievances

	<ul style="list-style-type: none"> ● J2: Stoltz Grievance <ul style="list-style-type: none"> ○ Stoltz C&I Report ○ Stoltz Personnel File 	
K	<ul style="list-style-type: none"> ● K1: Margaret Price, substitute teacher, notes on school - March 2019 ● K2: Pollio Memo - February 20, 2019 ● K3: SEAP - June 21, 2021 ● K4: JCTA and Kimbrough Emails ● K5: Kimbrough's Evaluation 11/5/2019 ● K6: EPRC ● K7: Suicide Prevention Training ● K8: Stoltz threat ● K9: Stoltz Compliance and Investigations Report ● K10: Settlement between JCPS and Johnson <ul style="list-style-type: none"> ○ Open Records concerning Settlement information provided to the media (WDRB) ○ KDE Open Records Request 	Various other documents
L	L1: Hearing Officer - Wyatt, Tarant & Combs	

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