



Sahuarita Unified School District No. 30

Sahuarita High School Sahuarita Middle School Sopori Elementary School
Sahuarita Primary School Sahuarita Intermediate School

MINUTES

**Special Governing Board Meeting
8:30 a.m. – February 2, 2004 - Pod B - District Auditorium
350 W. Sahuarita Rd., Sahuarita, AZ 85629**

I. Call to Order and Pledge of Allegiance

In the absence of President Anthony Bruno, Clerk Elaine Hall called the meeting to order at 8:35 AM. Also present were Board members Michael Lurkins and Daniel Zobenica, Superintendent Dr. Jay C. St. John, Attorney Scott Rash, Attorney Denise Bainton, Student Services Assistant Pat Huff, Psychologist Paul Harrison, Acting High School Principal and Director of Personnel Mary Northey. Board members Anthony Bruno and Martin McGee were absent. The Pledge of Allegiance was observed.

II. Approval of Agenda

III. New Business

A. Personnel

1. Hearing on charges of dismissal against James W. Phillips.*

*Mr. Phillips has the right pursuant to A.R.S. §15-541 to have the hearing conducted in public or private (executive) session. If Mr. Phillips demands that the hearing occur in private (executive) session, then the hearing will be in private (executive) session pursuant to A.R.S. §15-541, and not open to the public. Otherwise, the hearing will be in open session.

DIALOGUE

Mrs. Hall: "Phillips dismissal hearing. In December 2003 the Superintendent of the Sahuarita Unified School District presented to the Governing Board a statement of charges, charging that cause existed for the dismissal of James W. Phillips. In issuing its notice of intention to dismiss, the Governing Board determined that if true the charges constituted cause for dismissal. Mr. Phillips has requested a hearing on the charges; this is the time and place set for that hearing. The purpose of this hearing is to determine whether or not Mr. Phillips has engaged in the conduct of which he is accused and if has to decided or otherwise discipline him for that conduct. To dismiss Mr. Phillips, the district must show by a preponderance of the evidence that cause exists for Mr. Phillips dismissal. After the conclusion of the hearing, the Board will voted on whether or not dismiss or otherwise discipline Mr. Phillips. It is possible depending upon the hour that the Board may recess and reconvene for deliberation and vote at a later time."

Denise Bainton: "I have prepared basically a checklist. I have given a copy to Mr. Rash and the checklist goes through the charges that the Board issued. A few of the dates have been taken out from the original charges, but other then that this

document tracks the original charges that the Governing Board adopted in December. You notice there is a little line in front of each one and that is purely for the Boards convenience in making its findings a fact and conclusions when Mr. Rash puts on evidence concerning any one of these charges or the dates. Board members may, if you wish to, put a little check box there if you have any questions about any of those charges this would be the place for you to write down your questions for later. In other words, this document is purely for your own use. You will see that there are twelve findings, those are findings of fact. There are three conclusions, the conclusions are that the conduct constitutes unprofessional and grounds for dismissal, insubordination and grounds for dismissal and violation of Governing Board policy. Those are conclusions that the Board will come to at the end of this hearing, whether or not those conclusions are true, if you believe they are true then you put a check mark next to those, if you think they are not then you wouldn't. Then at the end there are three possible decisions that the Board could make as a result of this hearing. The first one would be to dismiss Mr. Phillips effective immediately, the second you do have the option under Arizona Law to suspend Mr. Phillips without pay for a certain number of days and you would fill in whatever those number of days and then the third possibility as a result of the hearing would be to not dismiss Mr. Phillips and to allow him to return to work and you could pick the day, I arbitrarily picked tomorrow if you chose not to dismiss him. After Mr. Rash presents his evidence and assuming that Mr. Phillips does not come to the hearing, then we would go immediately to these, if Mr. Phillips shows up then when Mr. Rash is done, Mr. Phillips would have the opportunity to present his evidence then Mr. Rash would present a rebuttal and then we would get to this. So that'll be the procedure. These documents are for your benefit only, once the Board has voted on what the document will look like, then a final one will be prepared for the signature, I would assume, of the Clerk of Board who is presiding at this hearing."

Mrs. Hall: Mr. Rash.

Mr. Rash: "Thank you. Just for the Boards, just kinda outline of where the testimony is going to go. I am going to call Mr. Steve Kellermeyer, he is going to address basically facts one through three and six through twelve on your sheets and then I am gona to call two other witnesses that will address parts of four and five and that'll pretty much complete the presentation this morning except for possible rebuttal. At this time, I'd like to call Mr. Steve Kellermeyer." "Good morning Mr. Kellermeyer, could you please state your full name for the record."

Mr. Kellermeyer: "Good morning, Steve Kellermeyer."

Mr. Rash: And what is your position here?

Mr. Kellermeyer: "Acting Principal, Sahuarita High School"

Mr. Rash: Are you familiar with one James W. Phillips?

Mr. Kellermeyer: "Yes sir, I am"

Mr. Rash: Is he a certified teacher employed by the Sahuarita School District for more then the major portion of three consecutive school years?

Mr. Kellermeyer: "That is correct"

Mr. Rash: Was Mr. Phillips assigned during that time as a Special Education Teacher at Sahuarita High School?

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Mr. Kellermeyer: "Also correct"

Mr. Rash: During the 2003-2004 school year, what was Mr. Phillips assignment?

Mr. Kellermeyer: "Special Education Teacher for science, math, he had one history class"

Mr. Rash: During that time period was he assigned to act as a case manager for a certain number of education students at the, special education students at the Sahuarita High School?

Mr. Kellermeyer: "Yes sir"

Mr. Rash: As part of his duties as a case manager, was Mr. Phillips responsible for drafting and presenting portions or drafts of portions of individual education plans sometime referred to as IEP's at meetings, at student meetings, IEP meetings which also involve the student's parents?

Mr. Kellermeyer: "He was"

Mr. Rash: To your knowledge was Mr. Phillips either late or ill prepared for some of those IEP meetings during the 2003-2004 school year?

Mr. Kellermeyer: "Mr. Phillips was late and ill prepared"

Mr. Rash: On September 24, do you have information that Mr. Phillips arrived at school at approximately 8:15 after classes had started?

Mr. Kellermeyer: "Yes sir"

Mr. Rash: What happened since he arrived late? What had to be done?

Mr. Kellermeyer: "We had to find someone else to cover his class, either me, someone else on the faculty until he could arrive"

Mr. Rash: Are you familiar with Mr. Phillips personnel file?

Mr. Kellermeyer: "Yes sir, I am"

Mr. Rash: Where you aware that on a prior date, that being March 21, 2002 former principal David Holmer had issued a letter of directive to Mr. Phillips?

Mr. Kellermeyer: "I am aware of that"

Mr. Rash: And in that letter of directive was it specifically set out that it was Mr. Phillips responsibility to be prepared and on time for all IEP meetings and to conduct the IEP meetings for which he had responsibility according to established State and Federal Guidelines?

Mr. Kellermeyer: "That was part of the letter"

Mr. Rash: And prior to that had Mr. Phillips been made aware through the evaluation process of his need to be on time for IEP meetings?

Mr. Kellermeyer: "Yes sir, he had"

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Mr. Rash: Pursuant to that previous knowledge of Mr. Phillips actions in regards to IEP meetings, did you on Wednesday November 12, 2003 issue a written reprimand and suspension without pay?

Mr. Kellermeyer: "Yes sir, I did"

Mr. Rash: And what was your purpose?

Mr. Kellermeyer: "To let Mr. Phillips know that we were still watching, he was still accountable and to move him up on the, towards dismissal if need be."

Mr. Rash: Was one of purposes in giving the written reprimand to notify Mr. Phillips that you believed his conduct was resulting in violations of Governing Board policy?

Mr. Kellermeyer: "Yes sir"

Mr. Rash: And what policies do you feel were violated?

Mr. Kellermeyer: "The letters exactly?"

Mr. Rash: "Yes, do you have a copy of the letter in front of you? If not, I can supply you with it"

Mr. Kellermeyer: "Okay, Board policy GCQF, which has to do with being on time, prepared and conducting themselves in a professional manner."

Mr. Rash: After this reprimand was issued, did you encounter other acts of behavior that were in violation of Governing Board policy?

Mr. Kellermeyer: "Yes sir, I did"

Mr. Rash: Specifically on Wednesday November 26, 2003, Mr. Phillips was the case manager in an IEP meeting, which began at 7:30 am, is that correct?

Mr. Kellermeyer: "That is correct"

Mr. Rash: And Mr. Phillips arrived at that meeting at approximately 7:45 after the meeting had concluded?

Mr. Kellermeyer: "Correct"

Mr. Rash: On Wednesday, on that same day, was Mr. Phillips assigned or scheduled morning duty?

Mr. Kellermeyer: "Yes he was and I was out there and he was not"

Mr. Rash: Did he appear for his morning duty assignment?

Mr. Kellermeyer: "No he did not"

Mr. Rash: Is it your belief based upon your observations and the knowledge that you have gained over the period of time regarding Mr. Phillips that he has engaged in a pattern of practice of not being prepared for student IEP meetings?

Mr. Kellermeyer: "I have definitely seen a pattern, yes sir"

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Mr. Rash: Is it your opinion that Mr. Phillips has engaged in a pattern of practice of arriving late for his duty assignments including special education meetings as well as other duty assignments?

Mr. Kellermeyer: "Yes sir the pattern is there too"

Mr. Rash: "Thank you, I have no other questions for this witness"

Ms. Bainton: Do Board members have any questions?

Mrs Hall: No

Mr. Lurkins: No

Mr. Zobenica: No

Mr. Rash: "At this time I'd like to call Ms. Pat Huff. Good Morning Ms. Huff."

Ms. Huff: "Good Morning."

Mr. Rash: Do you have information regarding an IEP meeting that occurred on August 27, 2003?

Ms. Huff: "Yes"

Mr. Rash: Was that meeting a reschedule of a prior meeting that was scheduled for May 14, 2003?

Ms. Huff: "Yes it was"

Mr. Rash: At that particular meeting did Mr. Phillips show up? The one on May 14, 2003.

Ms. Huff: "No he did not"

Mr. Rash: And because of that, that necessitated that IEP meeting being reschedule?

Ms. Huff: "Yes"

Mr. Rash: Okay and it was rescheduled for August 27, 2003?

Ms. Huff: "Yes"

Mr. Rash: Tell me what happened at the meeting at August 27, 2003. Were you there?

Ms. Huff: "I was not in the meeting, no."

Mr. Rash: Okay, was Mr. Phillips at the meeting?

Ms. Huff: "On August the 27th, yes"

Mr. Rash: "Okay, and did he have his paperwork prepared? The IEP paperwork.

Ms. Huff: "Some yes, it was not complete."

Mr. Rash: And after the meeting, had he completed the IEP paperwork?

Ms. Huff: "No"

Mr. Rash: How long did it take you or what actions did you have to take in order to get the paperwork completed?

Ms. Huff: "Several requests, verbally and by paper requesting that."

Mr. Rash: And when did and how many different requests did you make?

Ms. Huff: "Three or more"

Mr. Rash: And was it not until September 17, that the IEP paperwork was actually turned in completed and correct?

Ms. Huff: "That's correct"

Mr. Rash: "Thank you, I have no other questions for this witness." Next, I'd like to call Mr. Paul Harrison. Mr. Harrison, could you please state your full name and your occupation here at Sahuarita High School?"

Mr. Harrison: "My name is Paul James Harrison and I am the School Psychologist at Sahuarita High School"

Mr. Rash: And how long have you been in that position?

Mr. Harrison: "This is my ninth year"

Mr. Rash: And are you familiar with one Mr. James W. Phillips?

Mr. Harrison: "Yes I am, he is a teacher at the high school."

Mr. Rash: Did you know Mr. Holmer?

Mr. Harrison: "Oh yes, Dave Holmer sure did."

Mr. Rash: Had you approached Mr. Holmer on previous occasions regarding Mr. Phillips preparedness for IEP meetings and his timeliness to those meetings?

Mr. Harrison: "Yes I did beginning during the school year 01-02"

Mr. Rash: Beginning in the 03-04 school year, did you begin to document your observations of Mr. Phillips preparedness for the IEP meetings?

Mr. Harrison: "Yes I did, especially because that ill preparedness had become more and more blatant and consistent."

Mr. Rash: And at the beginning of the 2003-2004 school year was there specific training that was done notifying special education teachers including Mr. Phillips of their need to be prepared and on time for the IEP meetings?

Mr. Harrison: "Absolutely, both in special ed staff meetings and also in a 2 page memo which highlighted all those important factors. It was given on August 20."

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Mr. Rash: Do you have information regarding Mr. Phillips attendance at a September 17, 2003 IEP meeting in which he was the case manager?

Mr. Harrison: "Yes I do"

Mr. Rash: What happened at that meeting?

Mr. Harrison: "There was an IEP meeting scheduled that Mr. Phillips was the teacher for math and geography history for the student and he was, I'm sorry can I just review my notes for one second please?"

Mr. Rash: "Certainly"

Mr. Harrison: "Okay, I just wanted to refresh my memory about the case manager situation. Mr. Phillips was the case manager during that IEP meeting. He arrived at 7:45, I was also at the meeting because I was presenting the information about a three-year re-evaluation and so in his absence we began the meeting. Mr. Phillips arrived at 7:45, he had not prepared at all. He walked into the meeting and we have a book shelf of files that are blank and he preceded to walk in and pull all the necessary files off and sit down and start working at that time."

Mr. Rash: When you say files, are you talking about forms?

Mr. Harrison: "They are, excuse me, blank forms and the IEP is made up of approximately sometimes 10 different forms."

Mr. Rash: And do you have information or were you present at a meeting that occurred on September 22 in which Mr. Phillips was the case manager for the student that day?

Mr. Harrison: "Yes, I was"

Mr. Rash: And what happened at that meeting?

Mr. Harrison: "Mr. Phillips arrived 5 minutes late for that meeting"

Mr. Rash: And was he prepared?

Mr. Harrison: "I cannot recall that, I am sorry."

Mr. Rash: I will ask you now about an IEP meeting that occurred on September 23, 2003. Where you present at that meeting?

Mr. Harrison: "Yes I was"

Mr. Rash: Was Mr. Phillips late to that meeting?

Mr. Harrison: "Yes he arrive at 7:50 for a 7:30 IEP meeting and he again was the case manager for that IEP, in other words he was to run the meeting."

Mr. Rash: And on September 24, 2003, were you present at the meeting?

Mr. Harrison: "Yes I was"

Mr. Rash: And was Mr. Phillips late to that meeting?

Mr. Harrison: "Yes he was"

Mr. Rash: Did he have his paperwork, the IEP paperwork prepared?

Mr. Harrison: "No he did not"

Mr. Rash: How about a meeting on September 25, 2003? Were you at that meeting? You may not have been there.

Mr. Harrison: "I do not have that in my notes."

Mr. Rash: Okay, how about September 30, were you at that meeting?

Mr. Harrison: "Yes I was"

Mr. Rash: Okay, at an IEP meeting on September 30, 2003, you were present and Mr. Phillips was the case manager?

Mr. Harrison: "Yes he was and it was 7:30 meeting starting. He arrived at 7:50."

Mr. Rash: Were you present at meetings on either October 2 or October 8?

Mr. Harrison: "I was present at October 8."

Mr. Rash: Was Mr. Phillips on time to that meeting?

Mr. Harrison: "No he was not, he arrived at 7:55."

Mr. Rash: What time was the meeting scheduled to begin?

Mr. Harrison: "7:30"

Mr. Rash: Was he the case manager?

Mr. Harrison: "No he was not the case manager, but he was the only special ed teacher to have this student in class for two different periods and the special ed teacher that had the student IEP did not teach that student."

Mr. Rash: In your experience there IEP meetings are basically driven by State and Federal mandates?

Mr. Harrison: "Yes they are."

Mr. Rash: And under those state and federal mandates, it would have been important or required for Mr. Phillips to be at that meeting on October 8?

Mr. Harrison: "Yes"

Mr. Rash: Were you at a meeting on November 26, 2003?

Mr. Harrison: "Yes I was"

Mr. Rash: And was Mr. Phillips on time to that meeting?

Mr. Harrison: "No he was not, he arrived between 7:45 and 7:50."

Mr. Rash: And what time did the IEP meeting begin?

Mr. Harrison: "It began at 7:30 and actually that meeting since Mr. Phillips was the case manager that meeting was cancelled and the parent also did not show up. But one thing I would like to add though is that in special ed sometimes it is very difficult to get parents in and so state law requires that if you give three written documented notices, that if the parent does not show up you can have the meeting in their absence, but we could not have the meeting in their absence since the special ed teacher did not show up."

Mr. Rash: Could you please briefly tell the Board the importance of the IEP meeting and what the Individual Educational Plan involves?

Mr. Harrison: "The Individual Educational Plan is the complete blue print for special ed program for an individual student over the course of the next school year. Actually it starts from the date of that meeting for one entire year and that IEP includes the complete present level of performance across many different domains for students level of functioning. It talks about the current level of performance academically, socially, emotionally, etc... It then also includes accommodations for the regular classroom teacher to be able to implement for that student to be successful when they are not in a special ed classroom. It talks about how they are going to be tested on the AIMS, on the Stanford 9. It lists specific instructional goals and objectives on how students will be monitored on their progress. How they will be taught, it encompasses the entire special ed program and it is developed in concert with regular ed teachers, specialists like myself, speech language therapist, the parents and regular ed teachers as well."

Mr. Rash: And those IEP meetings are required by State and Federal regulations?

Mr. Harrison: "Yes they are and they are monitored very closely."

Mr. Rash: And the district is required to abide by those regulations?

Mr. Harrison: "Yes we are and if we do not meet those regulations, the state will withhold state and federal funds because we are considered out of compliance."

Mr. Rash: Thank you, I have no more questions for this witness.

Ms. Bainton: Do the Board members have any questions?

Mr. Zobenica: "I have just one. On the letter of reprimand that was issued on November 12, a written reprimand and suspension without pay, was there an effective suspension without pay at the time?"

Dr. St. John: "Yes"

Mr. Zobenica: "Okay, so he was on suspension at the time?"

Dr. St. John: "Well, what we did is we suspended him, we took away his pay, we suspended him without pay and we took the pay away on holidays so that he didn't miss school. So he was to be paid on Thanksgiving and the Friday after Thanksgiving."

Mr. Zobenica: "Okay, so he was still our employee on November 26?"

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Dr. St. John: "He was still our employee and we reduced his pay by three paydays or three days of pay, but we picked, rather than suspend him for days that when he was actually teaching and sending him home, we suspended him for three days without pay and we took the pay away Thanksgiving, Friday after Thanksgiving and another holiday so he didn't actually lose, the students didn't lose contact with the teacher."

Mr. Zobenica: "Okay, Thank you"

Mr. Rash: Any

2. Action as a result of hearing on charges of dismissal against James W. Phillips.

At any time during these proceedings, the Governing Board may call for, and hold, an executive session pursuant to A.R.S. §38-431.03.A.3, to consult with its attorney for legal advice.

IV. Report of the Superintendent - None

V. Adjournment

The meeting was adjourned at 9:04 AM. Mr. Zobenica made the motion and was seconded by Mr. Lurkins. The motion carried.

Respectfully,

Clerk of the Board