

In the Matter Of:

Lisa Herrera, et al.

vs.

Hillsborough County School Board, et al.

APRIL GRIFFIN

October 29, 2013



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ALSO PRESENT:

19

LEE MCKEE, Videographer
20 MARYELLEN ELIA, Hillsborough County School
District Superintendent
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I N D E X

TESTIMONY OF APRIL GRIFFIN

DIRECT EXAMINATION BY MR. COTTER

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CERTIFICATE OF OATH

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CERTIFICATE OF REPORTER

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ERRATA SHEET

53

NOTIFICATION LETTER

54

E X H I B I T S

(NONE)

S T I P U L A T I O N S

It is hereby stipulated and agreed by and between
counsel present for the respective parties, and the
deponent, that the reading and signing of the deposition
are hereby RESERVED.

1 THE VIDEOGRAPHER: We are now on the record
2 in the matter of Lisa Herrera and Dennis Herrera
3 versus Hillsborough County School Board.

4 Today's date is October 29th, 2013. The time
5 is 1:03. This is day one of the videotaped
6 deposition of April Griffin.

7 Will counsel please introduce themselves.

8 MR. COTTER: My name is Dan Cotter. And I'm
9 with the Maher Law Firm. And we represent the
10 plaintiffs, the Herreras.

11 MR. GONZALEZ: I'm Tom Gonzalez, representing
12 the defendant.

13 THE COURT REPORTER: Do you solemnly swear or
14 affirm that the testimony you are about to give is
15 the truth, the whole truth, and nothing but the
16 truth so help you God?

17 THE WITNESS: I do.

18 APRIL GRIFFIN,

19 having first been duly sworn, was examined and testified
20 as follows:

21 DIRECT EXAMINATION

22 BY MR. COTTER:

23 Q. Good afternoon.

24 A. Good afternoon.

25 MR. COTTER: Before we begin, let me just

1 note for the record that Ms. Elia is here in the
2 room. And I assume she's here as a designation --

3 MR. GONZALEZ: Corporate rep.

4 MR. COTTER: -- rep of one of the defendants.
5 And so I'm fine with that, but just understand, I'm
6 going to take the position that she would be the
7 corporate rep for the life of the case. And it
8 would be inappropriate to try to sort of mix and
9 mingle with other individuals at a later point in
10 time.

11 MR. GONZALEZ: I don't know if I understand
12 what you just said, but okay.

13 MR. COTTER: What I just said was that if
14 you're designating her as the corporate rep for the
15 life of this case, I'm fine with that. But if you
16 attempt to designate another person at a later time
17 for the role that she's playing here today, I will
18 object to that.

19 MR. GONZALEZ: Okay. Without agreeing to
20 your objection, I understand it.

21 MR. COTTER: Okay. Thanks.

22 BY MR. COTTER:

23 Q. So my name's Dan Cotter. We just met
24 briefly. I represent the Herrera family in this case.
25 And I'm here today to take your deposition.

1 And if there's any questions that I ask you
2 that you do not understand, please feel free to stop me
3 and interrupt me and ask me to rephrase the question.
4 It's very possible, very likely that I'll come with some
5 inarticulate question that doesn't make sense to you, you
6 don't understand it, want me to rephrase it, just feel
7 free to let me know.

8 Similarly, if you give a response that I'm
9 having difficulty following, then I might ask you to
10 explain your response.

11 And all that's -- my hope is and my goal here
12 today will be that you will understand my questions, and
13 I will understand your answers, unless we, otherwise,
14 advise each other.

15 May we have that agreement?

16 A. That's fine.

17 Q. Okay. Thank you.

18 And if at any time during the course of this
19 deposition you feel like you would benefit by looking at
20 a document, perhaps an exhibit or something else that I
21 might have, I'd be happy to take an opportunity for you
22 to look at any document that you might want to review
23 before you answer a question. Is that agreeable?

24 A. Yes.

25 Q. Okay. So tell us, please, for the record

1 what your full name is.

2 A. April Griffin.

3 Q. And, Ms. Griffin, are you currently employed?

4 A. Yes, I am.

5 Q. And how are you employed?

6 A. I'm a Hillsborough County School Board
7 member.

8 Q. And how long have you been employed as a
9 Hillsborough County School Board member?

10 A. Since November of 2006.

11 Q. And is that an elected position?

12 A. Yes, it is.

13 Q. Were you initially elected to that position?

14 A. Yes, I was.

15 Q. And what are the lengths of your term?

16 A. Four years.

17 Q. And, so as we sit here today, are you in your
18 second term?

19 A. I am.

20 Q. The first term you ran, was that in 2006?

21 A. Correct.

22 Q. Was that for an open seat or a --

23 A. Yes.

24 Q. -- continuation of --

25 A. Yes, it was.

1 Q. All right. And so you stood for reelection
2 again in 2010?

3 A. Yes, I did.

4 Q. Okay. Have you ever given a deposition
5 before?

6 A. No, I have not.

7 Q. Okay. All right. Can you tell me what, if
8 anything, you did in preparation for today's deposition?

9 A. Nothing.

10 Q. Did you review any documents?

11 A. No.

12 Q. Review any news stories?

13 A. No.

14 Q. Review any videotapes of the --

15 A. No.

16 Q. -- of the incident that occurred in January
17 of 2012 regarding Isabella Herrera?

18 A. No.

19 Q. All right. And during the course of this
20 deposition, I may refer to her interchangeably as
21 Isabella Herrera or IH. If you hear me say "IH," that's
22 who I'm referring to.

23 A. (Nods head.)

24 Q. Similarly, there may be some incidents
25 involving other children. And I may use their names. I

1 may use their initials. If there's any confusion about
2 that, just let me know. Okay?

3 A. Okay.

4 Q. Can you tell me a little bit about yourself
5 prior to coming onto the board of Hillsborough County
6 public schools?

7 A. What do you want to know?

8 Q. Where are you from? Where were you --

9 A. Tampa.

10 Q. -- raised? Tampa.

11 Born and raised in Hillsborough County?

12 A. Yes.

13 Q. Can you tell me a little bit about your
14 educational background, please.

15 A. I have a GED. And I'm about to complete my
16 bachelor's degree --

17 Q. Okay.

18 A. -- at Eckerd College.

19 Q. Eckerd?

20 A. Yes.

21 Q. Thank you.

22 And can you tell me then a little bit about
23 your employment experience prior to joining the board?

24 A. It's varied. What do you want to know?

25 Q. Well, let's try to walk, say, through the

1 last ten years prior to 2006.

2 A. I worked in politics. I worked in a private
3 business that my husband and I owned. I was a caregiver
4 for my family interspersed with ill family members. So
5 I've just got a very broad experience.

6 Q. Your husband's name, please.

7 A. Brian Griffin.

8 Q. And what business were you and he in
9 together?

10 A. Software.

11 Q. What kind of software?

12 A. Web software.

13 Q. Okay. What was the name of that business?

14 A. Cipher Soft Solutions, CS Consulting Group.

15 Q. And where was that located?

16 A. In -- here in Tampa.

17 THE WITNESS: But, Mr. Gonzalez, can I ask a
18 question?

19 MR. GONZALEZ: Yes, ma'am.

20 THE WITNESS: What does this have to do with
21 anything?

22 MR. GONZALEZ: Ms. Griffin, I think it has
23 absolutely nothing to do with anything.

24 Unfortunately, with the rules of discovery, they're
25 allowed to ask some questions that they wouldn't be

1 allowed to ask in court.

2 THE WITNESS: Okay.

3 MR. GONZALEZ: You do not have to answer
4 anything that is -- that is privileged or anything
5 of the like. But with respect to some of this
6 other stuff, they can ask those questions.

7 BY MR. COTTER:

8 Q. So is that a business still in existence?

9 A. No, it is not.

10 Q. When did it stop?

11 A. Approximately the beginning of 2000.

12 Q. Okay. And have you had any other employment
13 experience during the time you've been on the
14 Hillsborough County School Board?

15 A. No, I have not.

16 Q. Okay. Can you give me an idea of what
17 prompted you to run for the school board?

18 A. A desire to make things better.

19 Q. Okay.

20 A. A desire to change things.

21 Q. And is that still your desire?

22 A. It always is, yes.

23 Q. Okay. And did you have a campaign committee
24 in 2006?

25 A. Not really. It's a school board race.

1 Q. Okay. Well, just curious whether there was
2 anybody that -- aside from yourself that may have been
3 influential in your campaign?

4 MR. GONZALEZ: Object to the form of the
5 question. You can answer, if you can.

6 THE WITNESS: I don't understand your
7 question.

8 BY MR. COTTER:

9 Q. Did you have a campaign manager?

10 A. No.

11 Q. Any campaign staff, paid or unpaid?

12 A. No.

13 Q. All yourself?

14 A. Myself and family and close friends.

15 Q. Okay. Does the school board undertake a
16 routine or periodic review of the superintendent's
17 performance?

18 A. Yes, we do.

19 Q. How does that occur?

20 A. Annually we turn in our individual
21 preassessment. And then we do our annual evaluation
22 that's the formal evaluation.

23 Q. When does that occur?

24 A. Around August, I suppose. I don't know the
25 exact date.

1 Q. That's fine.

2 As with many questions and answers, you may
3 not have precise or exact information. And if you don't,
4 that's fine. Just tell us you don't have it or this is
5 an estimate or whatever the case may be.

6 But can you describe how that process works
7 for us? Is it a process that typically begins annually
8 in August of each year?

9 A. No. It begins before August.

10 Q. Okay. And how are the school board members
11 involved? You mentioned a preassessment. And then you
12 referred to -- and I'm sorry if I'm mischaracterizing
13 this or misunderstanding it. And you suggested maybe a
14 little more formal process. How does that work?

15 A. We have an evaluation that is a -- what's it
16 called? It's the interim evaluation.

17 Q. Like a mid-year?

18 A. It's something like that.

19 Q. Okay. Does the school board run from a
20 January 1 to December 31 process?

21 A. Without having the documents in front of me,
22 I don't know the exact dates. I know that it just comes
23 due. And we get the forms. We fill them out. We turn
24 them in.

25 Q. Okay. But you think that there's some

1 process that occurs a couple of months before something
2 more formal; is that what --

3 A. Yes.

4 Q. -- I'm understanding?

5 Is that what you're referring to as the
6 preassessment?

7 A. That's the interim, yes.

8 Q. What type of questions are you asked on that
9 form?

10 A. We're to look at the superintendent's evalua
11 -- or performance in a myriad of different forms --

12 Q. Okay. And do you --

13 A. -- curriculum. The way that she interacts
14 with employees, things like that.

15 Q. Do you -- do you rate her in that regard?

16 A. Yes, we do.

17 Q. Is it a scale of like 1 to 5 or --

18 A. Correct.

19 Q. -- A to D or something like that?

20 A. One to 5.

21 Q. All right. And what happens with those
22 forms?

23 A. Then we turn them in. We, the board members,
24 turn them in. And those scores are compiled. And that's
25 her overall evaluation.

1 Q. Now, is there something that's done later in
2 the year that's of a more formal nature?

3 A. Yes. That's the formal evaluation.

4 Q. Is that -- is that when the scores that you
5 referred to are compiled and presented?

6 A. Correct.

7 Q. Is that in a meeting with the board?

8 A. Yes.

9 Q. Is there someone outside of the board that is
10 the facilitator of that process, or does someone on the
11 board take the lead on --

12 A. Human resources.

13 Q. Okay. And who is that person that would take
14 the lead in that process?

15 A. Mr. Dan Valdez, from my understanding.

16 Q. Does he take custody of the reviews and do
17 the analysis and then give that back to you all?

18 A. Correct.

19 Q. And then this meeting that you have, is it
20 just the board, the superintendent and Mr. Valdez?

21 A. No, it's an open government in the sunshine
22 board meeting.

23 Q. Okay. Regular -- one of your
24 regularly-scheduled board meetings?

25 A. Correct.

1 Q. Okay. And is there a particular time of year
2 when that review is shared with the superintendent?

3 A. Yes.

4 Q. What time of year is that?

5 A. That's -- that's that August date that I --

6 Q. Okay.

7 A. -- referenced earlier.

8 Q. Are the reviews themselves made available to
9 the public?

10 A. Yes, they are. They're all public record.

11 Q. Are they online?

12 A. Yes, they are.

13 Q. How about the individual assessments that are
14 generated by each board member?

15 A. All of it is public record.

16 Q. And it's accessible online?

17 A. Yes.

18 Q. Now, in regards to the ESE department, I want
19 to kind of go back to 2011 and 2012. And then we can
20 talk about the future.

21 But from your perspective, was there anyone
22 from the ESE department who would either attend regularly
23 or report regularly to the school board on the
24 developments and events and ongoing operations of the ESE
25 department?

1 A. That would be the superintendent.

2 Q. Okay. So no one in particular who had
3 special responsibility for that department would be a
4 part of that? That would be done by the superintendent?

5 A. No. She has -- she is responsible for hiring
6 all employees. We hire our superintendent and our
7 attorney. And the superintendent hires the employees.
8 And they report directly to her. And then she reports to
9 the board.

10 Q. Okay. So, for example, if you were wanting
11 to get information -- if a board member was wanting to
12 get information about an ESE issue, the protocol would be
13 to request that information from the superintendent. And
14 if there was a public meeting or if this discussion was
15 held in public, you would expect the superintendent to be
16 the one who would be providing that information?

17 A. Correct.

18 Q. So going back to 2011, 2012, how frequently
19 would the school board have meetings?

20 A. Every other week.

21 Q. Were they preset?

22 A. Yes, they are.

23 Q. And what are they?

24 A. Tuesdays. It's all online as well.

25 Q. Okay. And -- all right. Am I understanding

1 **correctly your position is a full-time position?**

2 A. It's by statute a part-time position.

3 **Q. Okay.**

4 A. However, this is the eighth largest school
5 district in the nation. That's not necessarily the way
6 that we have to operate.

7 **Q. Okay. Are you all compensated as --**

8 A. Yes, we are.

9 **Q. -- as if it's a part-time position?**

10 A. No. It's -- the compensation is based on
11 statute, and it's based on the population --

12 **Q. Okay.**

13 A. -- in your district as a school board member.

14 **Q. Are school board members provided an
15 office --**

16 A. No.

17 **Q. -- or staff of any kind?**

18 A. We operate out of our homes. And we have
19 shared secretary staff that we have.

20 **Q. Access to?**

21 A. Yes.

22 **Q. Where does that person physically work
23 out of?**

24 A. Out of the downtown office.

25 **Q. Okay. So if you have some**

1 administrative-type work that needs to be produced, that
2 person would -- either you would do it yourself or that
3 person may be involved in assisting you?

4 A. Correct.

5 Q. Can you give me a sense of what the -- kind
6 of the average week might look like for a school board
7 member?

8 A. There's no average week.

9 Q. Okay. We know one of the -- if we use a
10 two-week period, we know -- we know at least during --
11 once during that two-week period there will be an open
12 school board meeting, right?

13 A. It all depends on the time of year. Some
14 times are much more active than others. There are
15 workshops to attend. There are visits. There are
16 meetings with constituents. There are phone calls.
17 There are e-mail follow-ups; various events to attend to,
18 different boards that we all serve on, membership on
19 those boards and attendance and the work of those boards
20 that needs to be done.

21 So it's a -- it's a very diverse response --
22 the roles are very diverse. And their responsibilities
23 are very diverse.

24 Q. The boards that you were referring to, are
25 they boards that are associated with the school board, or

1 are we talking about other community organizations?

2 A. Community organizations mainly.

3 Q. Okay. Can you describe for me the structure
4 of the school board? So, for example, are there like
5 subcommittees that might handle budget or personnel or
6 ESE?

7 A. No.

8 Q. Okay. No subcommittees whatsoever?

9 A. Not currently. We don't really operate with
10 too many subcommittees.

11 Q. Is that true going back to 2011, 2012?

12 A. Pretty much, yes.

13 Q. Okay. And you said not -- not too many. Are
14 there some?

15 A. We have a travel subcommittee so that when
16 board members submit travel, there's a subcommittee that
17 looks at that and, you know, makes sure that we're within
18 the parameters that we've set for ourselves. Things like
19 that.

20 Q. Any others that come to mind?

21 A. Not at the moment.

22 Q. And in terms of hiring, would be -- would the
23 only position that the board would have responsibility
24 for hiring be for the superintendent?

25 A. No. We have three positions that we can hire

1 as a board by law. And that is the superintendent, our
2 board attorney, and a financial auditor.

3 Q. All right. So since you have been on the
4 board since 2006 -- right --

5 A. Correct.

6 Q. -- have you been involved in the hiring of
7 any of those three people?

8 A. Yes. We just hired a new school board
9 attorney.

10 Q. And who is that?

11 A. Mr. Jim Porter.

12 Q. Jim Porter?

13 A. Porter, P-o-r-t-e-r.

14 Q. Is he with a firm?

15 A. Yes, he is.

16 Q. Okay. What is his role? What is the school
17 board attorney's role?

18 A. He is to oversee our board meetings, give us
19 advice at board meetings, work with Mr. Gonzalez as our
20 general counsel, help us with parliamentary procedure.
21 Just help us in our board meetings and meet with us
22 individually as needed to give us advice on issues that
23 we want to have advice on.

24 Q. Okay. And when was that hiring done?

25 A. At the last board meeting.

1 Q. Like --

2 A. I forget the --

3 Q. -- within two --

4 A. -- exact date.

5 Q. -- weeks ago?

6 A. Yeah, around that.

7 Q. Is he -- is his firm replacing one of the
8 firms that's involved in this case?

9 A. No. He's just acting as the school board's
10 counsel.

11 Q. Okay. Who did he replace?

12 A. Mr. Gonzalez.

13 Q. Now, who is Emily Briggs?

14 A. Emily Briggs is my secretary.

15 Q. Is she the person that you referred to
16 earlier who has sort of responsibility for --

17 A. Correct.

18 Q. Are you familiar with the acronym HRMD?

19 A. Yes, I am.

20 Q. Can you tell me what that means and what your
21 understanding of what it does.

22 A. HRMD is our policy over our hiring
23 procedures.

24 Q. Okay. When you say "our," meaning the school
25 board in general?

1 A. The school district's.

2 Q. Okay. And are there some essential
3 principles of that process that you could share with me?
4 For example, you know, are there two or three named
5 objectives of that process, or is it just an acronym that
6 describes the human resource process --

7 A. It's --

8 Q. -- process when employees are hired?

9 A. It's a process that needs to be followed to
10 ensure consistency. We have committees that do the
11 interview process. And that's part of it as well so that
12 when there is a job that is advertised, it is advertised
13 for so long. And there's consistency in that. Once the
14 applicants are all in that time period, once that job
15 closes, then they go through the application process.
16 And that's all done by committee.

17 And there's very strict guidelines on the
18 questions that are asked and the points assessed as
19 they're going through the hiring process. And "they"
20 being the employees that are hiring.

21 Q. Now, you as a board member, is your
22 familiarity with that process because the board members
23 have ultimately the oversight for that policy in general
24 or --

25 A. Correct.

1 Q. Okay. So how would you explain to me the
2 role of the school board in this community?

3 A. We are policymakers. We are advocates for
4 our community. And we are tasked with ensuring that we
5 have a balanced budget.

6 Q. Okay. And I am familiar with a document
7 we'll look at in a few minutes that uses the words
8 "administrative appointments."

9 Can you tell me what an administrative
10 appointment is and how it relates to the function of the
11 school board, if at all?

12 A. The superintendent hires and makes the
13 recommendation to the board. And the board votes up or
14 votes down the superintendent's recommendations for
15 administrative appointments.

16 Q. And is it -- is an administrative appointment
17 a term of art? In other words, does it describe a
18 certain kind of appointment to the exclusion of other
19 hires?

20 A. There are all different types of hires within
21 the district. Certain hires that are direct -- is the
22 director level and above come before the board.
23 Administrative transfers such as assistant principals and
24 things like that also come before the board.

25 Q. What kind of hires by the school system would

1 not come before the board?

2 A. Lunchroom workers, custodial workers, bus
3 drivers, those types of administrative support roles.

4 Q. How about teachers?

5 A. Teachers do, yes.

6 Q. They do come before the board?

7 A. I -- I believe so, yes.

8 Q. Okay. Now, so these words "administrative
9 appointment," if you hear that in your work as a school
10 board member, you immediately visualize an appointment
11 that requires approval by the board?

12 A. Yes.

13 Q. All right. And how does that process work?
14 How do you become aware of a request or an idea that a
15 person is going to be submitted to the board for
16 administrative appointment to a particular position?

17 A. The board is informed prior to the board
18 meeting of who that person is going to be. They're given
19 the opportunity to ask the questions that they feel are
20 necessary to feel comfortable with that appointment. And
21 then at the board meeting, the recommendation is made.
22 And the board either votes in favor of or in -- to deny
23 the superintendent's recommendation.

24 Q. And when you say that the board is given the
25 information before the hearing, what do you mean by that?

1 Do you mean minutes before you're given an agenda or a
2 few days before?

3 A. It varies. It varies on the time that the
4 hiring process closes or -- it varies.

5 Q. Okay. So what if you get in a situation
6 where it's a few minutes before a meeting and you're
7 given a recommendation that you're going to be asked to
8 vote on for that night and you don't feel comfortable and
9 would like to have additional time to evaluate whether
10 you think this person is the right person for this
11 administrative appointment?

12 A. By law the only way that a board member can
13 say no to the superintendent's recommendation is if they
14 have due cause. If they feel -- if they have proof
15 of miss -- whatever. I don't know the exact language
16 right off the top of my head. But it's the
17 superintendent's right by law to make the recommendations
18 that she feels are best.

19 Q. So if I'm understanding you correctly, unless
20 you have some grounds -- a definition of which we don't
21 have right here. But unless you have some grounds to
22 call into question the capability of a person who's being
23 recommended, you can't just say no based on your opinion
24 that there might be a better qualified person out there?

25 A. Correct.

1 Q. Okay. But -- and that sort of comes back to
2 my next -- my earlier question is: What if you were
3 being asked to get a recommendation on an administrative
4 appointment for a high-level person -- perhaps not a
5 deputy superintendent -- perhaps an assistant
6 superintendent or a director of a department reporting to
7 an assistant superintendent, what if that was given to
8 you just minutes before a meeting was about to begin?
9 How would you have any ability to even determine whether
10 there would be any reason to object whatsoever?

11 A. (Shakes head.)

12 Q. You don't --

13 A. I don't know how to answer that question.

14 Q. Because there is no mechanism for you to do
15 that?

16 A. Correct.

17 Q. Is that a source of --

18 A. We -- we would have a conversation at the
19 board meeting if we felt that that was necessary.

20 Q. Is that a source of concern or frustration
21 for board members?

22 A. It has --

23 MR. GONZALEZ: Objection to --

24 THE WITNESS: -- been in the past.

25 MR. GONZALEZ: Object to the form of the

1 question. You may answer.

2 BY MR. COTTER:

3 Q. So going back to your tenure on the board
4 since 2006, can you -- can you remember any situation,
5 does any situation stand out where the board has rejected
6 an administrative appointment of the superintendent?

7 A. The board has not rejected any that I'm
8 familiar with.

9 Q. Okay. Can you remember a situation where
10 perhaps you haven't rejected such a recommendation or an
11 appointment, but board members have asked questions at
12 the hearing about a person's suitability for a job?

13 A. Yes, I can recall.

14 Q. Is that -- is that routine or --

15 A. No, it's not routine. It's very rare.

16 Q. Is there any kind of a -- like for -- how do
17 I say this?

18 Do you ever feel or do board members feel
19 that their ability to provide that kind of oversight is
20 somehow chilled or discouraged by the superintendent or
21 others that work on her staff?

22 A. I can't speak for other board members.

23 Q. How about yourself?

24 A. There have been times I would have preferred
25 to have more time --

1 Q. Okay.

2 A. -- for some recommendations.

3 Q. In those instances where you are asked to
4 take a vote on an administrative appointment, am I
5 understanding correctly that again if someone feels that
6 there is grounds or good cause or just cause, whatever
7 the definition is, it would be a majority vote of the
8 board that would make that determination?

9 A. Correct.

10 Q. All right. Now, in this regard, I'd like to
11 turn our attention to a discussion of Joyce Wieland, when
12 she was appointed director of the ESE program.

13 My understanding is you were not present that
14 evening; is that correct?

15 A. I don't recall.

16 Q. Okay. Well, let me show you what's been
17 marked as Plaintiffs' Exhibit No. 1. This was an exhibit
18 we used earlier today.

19 MR. COTTER: Would you like to see it again?

20 MR. GONZALEZ: I got it. Thanks.

21 BY MR. COTTER:

22 Q. Would you like to take a minute just to look
23 through that, please?

24 A. I was not present at this meeting.

25 Q. Okay. And I'm going to ask you a few more

1 questions about that. You might want to just keep that
2 there in case you need to refer to it again.

3 It's my understanding that on August 5th at
4 the board meeting that was held that day in 2008 that the
5 superintendent had come before the board and, among other
6 business to attend to that day, had recommended the
7 appointment of Joyce Wieland to be general director of
8 the ESE program. Do you recall that?

9 A. I do not.

10 Q. I know you weren't present that -- for that
11 particular vote. The record does reflect that, correct,
12 that you were not present?

13 A. Correct.

14 Q. There are minutes from the meeting that are
15 contained in Exhibit 1, right?

16 A. Yes.

17 Q. And the minutes show that your fellow board
18 member, Olsen, made the initial motion to appoint
19 Joyce Wieland; is that right?

20 A. It says, "Motion by Member Olsen."

21 Q. And seconded by Dr. Lamb?

22 A. "Second by Member Lamb."

23 Q. Okay. And it also shows that you were not
24 present; is that correct?

25 A. Correct.

1 Q. Did you -- were you aware that that
2 appointment was going to come before the board that
3 evening?

4 A. I was aware that the position was open, yes.

5 Q. Okay. I mean, were you aware in particular
6 that this recommendation -- that Joyce Wieland was going
7 to be coming before the board that evening?

8 A. I don't recall.

9 Q. I want to ask you as a board member what is
10 your understanding of whether the position of general
11 director of ESE, the one that Ms. Wieland was appointed
12 to in August of 2008, was that a position that was, to
13 your knowledge, advertised?

14 A. Yes.

15 Q. Is it required to be advertised?

16 A. By HRMD, yes.

17 Q. By the regulations that you referred to
18 earlier?

19 A. Correct.

20 Q. Do you have any idea whether candidates were
21 screened for that?

22 A. They by HRMD should have been. I don't know.

23 Q. Do you have any information whatsoever about
24 how it is that Ms. Wieland came to be the person that was
25 nominated by the superintendent?

1 A. No, I do not.

2 Q. Were you aware when your colleagues were
3 asked to vote on her that evening that she had no
4 certification whatsoever in ESE?

5 A. No, I was not.

6 Q. Are you aware of that now?

7 A. If what you're saying to me is true, then
8 yes, I am now.

9 Q. Does that surprise you?

10 A. (Nods head.)

11 Q. Yes?

12 A. I suppose it does.

13 Q. You're saying that the regulations require
14 that more than one candidate be screened and interviewed?

15 A. Under -- if more apply, yes.

16 Q. Okay.

17 A. But sometimes only one person applies.

18 Q. All right. But if more than one person
19 applies, if the rules were followed, as you understand
20 them, you would expect that there would be at least two
21 or more candidates who would be screened for that?

22 A. Correct.

23 Q. And do you have any knowledge about what the
24 regulations or policy requires with respect to the
25 interview of that candidate?

1 A. Specifically what are you asking?

2 Q. Are you aware of whether, for example,
3 there's a minimum requirement under the rules that a
4 certain number of people actually be interviewed?

5 A. I can't recall that.

6 Q. Did you ever learn anecdotally what the
7 reasons were to have the superintendent support
8 Ms. Wieland for this position?

9 A. No, I did not.

10 Q. Has the school board ever looked into that?

11 A. Not that I'm aware of or that I can recall.

12 Q. Are you aware of anyone else other than
13 Ms. Wieland who applied for that position?

14 A. No, I'm not.

15 Q. Were you aware that Ms. Wieland had no
16 significant training with ESE students?

17 A. No.

18 Q. Were you aware that she had no significant
19 experience working with ESE students?

20 A. No.

21 Q. You're aware, are you not, that on some
22 occasions there's scripts that are prepared by or for the
23 superintendent introducing a particular nomination for an
24 administrative appointment, correct?

25 A. Yes.

1 Q. Why don't you turn, if you would, please, to
2 probably page 3 of that. I think you'll see at the
3 bottom 015541 from Exhibit 1 there. And it's the script
4 regarding the recommendation to appoint Joyce Wieland.

5 Do you see anywhere in that script any
6 mention whatsoever of a certification, training, or
7 experience with ESE students?

8 A. No.

9 Q. All right. Despite that, your colleagues
10 approved that appointment?

11 A. Yes.

12 Q. Have you had an opportunity to review the
13 personnel evaluations for Ms. Wieland?

14 A. No.

15 Q. I want to turn our attention to issues
16 regarding the investigation and reporting of student
17 injuries.

18 Would you agree with me that the
19 investigation of accidents involving students in the
20 school district is a necessary and effective technique
21 for preventing recurring or future accidents?

22 A. Yes, depending on the accident.

23 Q. Would you agree with me that through this
24 type of investigation, accidents, specifically that those
25 involve serious student injury or death, can help

1 determine causes and problem areas that might be
2 identified?

3 A. Yes.

4 Q. And would you agree with me that if the
5 school board were provided information that allowed it to
6 see a pattern of specific types of problems, that those
7 causes of those problems could be an opportunity to
8 address them?

9 A. Yes.

10 Q. And would you agree with me that eliminating
11 the cause or correcting the problems that are identified
12 through accident investigation involving serious injury
13 or death could ultimately help develop a safer school
14 environment?

15 A. Yes.

16 Q. And would you agree with me that
17 district-wide policies, as well as safe practice
18 protocols in effect at Hillsborough County schools
19 required the investigation and documentation of accidents
20 involving serious injury and death of students?

21 A. Yes.

22 Q. Would you agree with me that the failure to
23 report accidents involving serious injury or death and
24 the failure to investigate those incidents involving
25 students could ultimately lead to future similar

1 incidents occurring within the school district?

2 A. Yes.

3 Q. And would you agree with me more specifically
4 that if multiple incidents involving ESE students are not
5 adequately reported and investigated, the risk of injury
6 to other ESE students increases?

7 A. It could, yes.

8 Q. And is it your expectation as a school board
9 member that incidents involving serious injury and death
10 to students should be reported to the school board?

11 A. Yes.

12 Q. Now, I understand since Isabella Herrera's
13 death that there is a new policy in effect that school
14 board members are provided e-mails in close to as
15 realtime as possible about incidents that occur with
16 students in the school system; is that true?

17 A. That is true.

18 Q. And were you one of the people who were
19 instrumental in bringing that new policy about?

20 A. I'm one of the board members that spoke of
21 that, yes.

22 Q. And I want to ask you about some previous
23 incidents. I know you didn't go on the board until 2006,
24 but you've been a life-long resident and parent of
25 children who went through the school system.

1 Were you aware of an incident involving an
2 ESE student in 1999 named Eric Martin --

3 A. No.

4 Q. -- for whom a bus driver took him home and
5 let him off at the wrong bus stop and he ended up getting
6 hit by a car trying to cross a busy road in his effort to
7 get home?

8 A. No.

9 Q. Were you ever made aware of that?

10 A. (Shakes head.)

11 MR. GONZALEZ: Object to the form of the
12 question.

13 BY MR. COTTER:

14 Q. Were you aware in 2011 of an ESE student,
15 February 3rd, 2011 -- CF is the initials. I believe the
16 name is Chelsea --

17 MR. GONZALEZ: Chelsea.

18 MR. COTTER: Chelsea Fabiszak.

19 MR. GONZALEZ: Fabiszak.

20 MR. COTTER: Thank you.

21 MR. GONZALEZ: F-a-b-i-s-z-a-k.

22 MR. COTTER: Thank you.

23 BY MR. COTTER:

24 Q. Who was sent home from school with a spiral
25 fracture and broken femur?

1 MR. GONZALEZ: Object to the form of the
2 question. You can answer it, if you can.

3 THE WITNESS: I'm familiar with Ms. Fabiszak
4 and her child's situation.

5 BY MR. COTTER:

6 Q. Were you aware that there was no
7 investigation done by the school system in that regard?

8 A. No, I am not aware of that.

9 Q. And --

10 A. In regards to Ms. Fabiszak, can I say that I
11 know that staff worked with her from what I understood
12 very, very closely because I did ask a lot of questions
13 about that.

14 Q. And I'm talking about the type of
15 investigation that we referred to, which would be
16 recorded, which would allow to identify patterns and
17 trends of harmful conduct occurring with ESE students.
18 No such investigation was done?

19 MR. GONZALEZ: Object to the form of the
20 question.

21 THE WITNESS: I --

22 MR. GONZALEZ: You can answer it, if you can.

23 THE WITNESS: Not to my knowledge, no.

24 BY MR. COTTER:

25 Q. Are you aware of an incident that happened in

1 2011 when a young ESE student was left on a bus for the
2 entire day? This happened about 40 days or so before
3 Isabella Herrera's death.

4 A. I can't recall that situation.

5 Q. Are you aware that no investigation by the
6 school system was done of that incident?

7 A. No.

8 Q. Don't you agree that if some investigation
9 had been done that the possibility of information could
10 have been gathered that would have revealed deficiencies
11 in the training of the school transportation staff that
12 could have been recognized and addressed?

13 MR. GONZALEZ: Object to the form.

14 THE WITNESS: I don't know of the situation.
15 I don't know if there was an investigation done or
16 not. I'm not familiar with that at all --

17 BY MR. COTTER:

18 Q. Are you familiar --

19 A. -- that I can recall.

20 Q. Are you familiar with the drowning case of a
21 student named Caballero --

22 MR. GONZALEZ: Caballero.

23 MR. COTTER: Yes.

24 THE WITNESS: Yes, I am.

25 BY MR. COTTER:

1 Q. Do you understand that that incident happened
2 after Isabella Herrera's death?

3 A. Yes.

4 Q. You understand that that investigation got a
5 lot of -- that whole situation -- strike that.

6 You understand that that tragic drowning was
7 something that was covered closely by the press --

8 A. Yes.

9 Q. -- and close to realtime?

10 A. Yes.

11 Q. And as a result of that publicity, an
12 investigation was undertaken by the Office of
13 Professional Standards with the school system, correct?

14 A. I don't know that it was necessarily the
15 press and the coverage that prompted that investigation.

16 Q. But one was done?

17 A. Yes, one was done.

18 Q. And individuals were disciplined, in some
19 cases terminated as a result of that, correct?

20 A. Yes. There was also a police investigation.

21 Q. Did you know that in September of 2012, an
22 eight-year-old autistic child was kicked by a
23 Hillsborough County school bus driver?

24 A. Yes.

25 Q. Did you know that there was no investigation

1 done by the school system in that regard?

2 A. That's not my understanding.

3 Q. Okay. What is your understanding?

4 A. That the situation was investigated. The
5 employee was dismissed. She was arrested. And there was
6 an investigation.

7 Q. And I'm talking about investigations that are
8 completely separate and independent of law enforcement.
9 I'm talking about investigations by the school system
10 which results in reports that can be used to address
11 deficiencies in training, hiring and the like?

12 A. There are times when a police investigation
13 can give us that as well.

14 Q. All right. But in this case, you're not
15 aware of any school investigation?

16 A. Not -- I don't know. I believe there was. I
17 could be wrong, but I believe there was.

18 Q. Has there been any effort by the school board
19 to investigate or look into the reoccurring problems that
20 have happened to ESE students in connection with
21 transportation?

22 MR. GONZALEZ: Object to the form of the
23 question. You can answer, if you can.

24 THE WITNESS: Yes.

25 BY MR. COTTER:

1 Q. What efforts have been taken by the school
2 board?

3 A. We -- we have task force and subcommittees
4 and staff working on this issue with community members,
5 parents, people from the ESE division who have come up
6 with a plan as we move into the future. And we're moving
7 forward on that, on a lot of changes.

8 Q. When did this occur?

9 A. Just recently.

10 Q. Is it something that was discussed publicly?

11 A. Yes, very publicly.

12 Q. Talking about within the last month?

13 A. One of the committees, yes. And then prior
14 to that, it's been ongoing.

15 Q. And this has been something that's been led
16 by and initiated by the school board; is that right?

17 A. I think it's been the school board and staff.

18 Q. But, in other words, it's an initiative that
19 was raised by concerns of people like yourself?

20 A. Myself and others.

21 Q. And yourself and others essentially have
22 directed the superintendent and her staff to begin the
23 types of activities that you just described?

24 A. Yes.

25 Q. And you agree, don't you, that it's

1 imperative that transportation staff be provided specific
2 information on the needs of ESE students who utilize the
3 transportation services?

4 A. Yes.

5 Q. And you agree that the staff, the school
6 transportation staff, must be trained on the specific
7 disability and needs of ESE students being transported in
8 school buses, correct?

9 A. Yes.

10 Q. Now, it's my understanding that you were not
11 made aware of Isabella Herrera's death, the incident that
12 happened on the bus on January 25th, 2012, until her
13 family filed this lawsuit; is that right?

14 A. Yes.

15 Q. Just wondering how can that be?

16 A. I don't know.

17 Q. Were you aware that the Hillsborough County
18 Sheriff's Office requested a copy of the bus video
19 regarding the Herrera incident shortly after it happened?

20 A. I am now.

21 Q. You were not until this lawsuit was filed?

22 A. Correct.

23 Q. You know who John Franklin is; do you not?

24 A. Yes.

25 Q. Director of transportation?

1 A. Correct.

2 Q. Did you know that he told the officers that
3 requested the bus video that he required a subpoena in
4 order to release it?

5 A. No.

6 Q. That was never brought to the board's
7 attention?

8 A. No.

9 Q. Were you aware that a subpoena had to be
10 issued to the Hillsborough County School District to
11 obtain the bus video?

12 A. I am now.

13 Q. Are you aware that the following people in
14 the school district were all sent a copy of the subpoena:
15 John Franklin, Kathy Valdez, Michelle Carpenter,
16 Kathryn Walker, and David Friedberg?

17 A. I am now.

18 Q. Despite all these people being aware of this
19 incident, do you consider it shocking that nobody
20 insisted on a formal report or investigation of
21 Isabella's death?

22 MR. GONZALEZ: Object to the form.

23 THE WITNESS: Could you --

24 MR. COTTER: Sure.

25 BY MR. COTTER:

1 Q. Despite all of these people in the school
2 system, employed by the school system being aware of this
3 incident, isn't it shocking -- wouldn't you agree that
4 it's shocking that nobody insisted on a formal report or
5 investigation of her death?

6 A. I believe there should have been an
7 investigation.

8 Q. No district staff members have ever been
9 disciplined for the Herrera incident; isn't that true?

10 A. Ask the question again, please.

11 Q. No staff members have ever been disciplined
12 for the Herrera incident; isn't that true?

13 A. That is not true.

14 Q. Who has been disciplined that you're aware
15 of?

16 A. The superintendent.

17 Q. And how was she disciplined?

18 A. Through her evaluation.

19 Q. And tell me what that evaluation revealed
20 that leads you to conclude it was considered discipline.

21 A. She was held accountable through her
22 evaluation for that incident.

23 Q. How was she held accountable?

24 A. Through the scores that she received on her
25 evaluation.

1 Q. And what were they?

2 A. Very low.

3 Q. And it was directly attributable to the
4 Herrera incident?

5 A. Yes.

6 Q. Did that evaluation result in any -- any loss
7 of responsibility?

8 A. No, because her responsibility is -- her
9 responsibility is by law, by statute.

10 Q. Did that -- did that evaluation result in any
11 pecuniary loss to her?

12 A. No.

13 Q. And when you say this was by the board, can
14 you be more specific? Are we talking about the
15 evaluation that you filled out or the evaluation that
16 others filled out?

17 A. Myself and others.

18 Q. Have you had an opportunity to watch the bus
19 video of the Herrera incident?

20 A. Yes, I have.

21 Q. When did you have that opportunity?

22 A. When I was made aware of it, when the lawsuit
23 was filed.

24 Q. And what was your response?

25 A. What would anybody's response be? It was --

1 it was horrifying to watch.

2 Q. Were you aware that my law firm on
3 February 27th, 2012, some eight or nine months before
4 this lawsuit was ever filed, sent a letter by registered
5 mail to the Hillsborough County School Board, alerting
6 them that we represented Isabella Herrera and made them
7 aware of the claim that we were going to make and
8 requested certain information?

9 A. No.

10 Q. Were you aware that we sent a letter to the
11 school board on the 28th of February, 2012 asking for
12 insurance information?

13 A. No.

14 Q. Are you aware of any of the correspondence
15 that my firm initiated to the school board sent by
16 certified mail between February and July, attempting to
17 make the school board aware of Isabella Herrera's death
18 and seeking information about pursuing a claim?

19 A. No.

20 Q. And were you aware that on July 3rd, 2012
21 we -- my law firm on the Herreras' behalf sent a letter
22 to Mr. Murman inviting him and the school board and the
23 school system to participate in a presuit mediation with
24 an attempt to try to resolve this case without filing a
25 lawsuit?

1 A. No.

2 Q. No one ever brought that to the school
3 board's attention?

4 A. It may have been brought to our board chair's
5 attention at the time. I was not the board chair.

6 Q. Never brought to your attention?

7 A. No.

8 Q. Were you aware that on September 28th we were
9 advised that there would be no negotiation of this case
10 and that we were -- there would be no mediation in this
11 case and that we were suggested to proceed as we saw fit?

12 A. No.

13 Q. So if I'm understanding your response, you
14 think that it may be possible that the chair of the
15 school board was informed of this information, but you're
16 not aware one way or the other?

17 MR. GONZALEZ: Object to the form.

18 THE WITNESS: I don't know.

19 BY MR. COTTER:

20 Q. Who was the chair at that time?

21 A. Candy Olsen.

22 Q. Is that -- if she was so informed, is that
23 the kind of information you would have expected that she
24 would convey to your fellow members?

25 A. At that time we did not get information about

1 pending lawsuits. We currently do.

2 Q. Okay. And I understand that the position is
3 that this is information about a pending lawsuit. But
4 the communications also contained information about the
5 death of a student.

6 And so my question is: Do you -- would you
7 expect to have been advised about the death of a student
8 in connection with transportation?

9 A. From who?

10 Q. From anyone in the school system who's
11 received these communications?

12 A. Yes, I would.

13 Q. I mean, the death of a student at a school
14 facility or in connection with transportation is a fairly
15 rare event; is it not?

16 A. Yes, it is.

17 Q. In fact, in your tenure on the school board
18 since 2006, how many such cases are you aware of?

19 A. Of student deaths?

20 Q. Yes.

21 A. On campus or off?

22 Q. On campus or in connection with
23 transportation to and from campus.

24 A. I don't know, not --

25 Q. Two or three?

1 A. Maybe.

2 Q. So it's a pretty serious matter; is it not?

3 A. Yes.

4 Q. And one you would expect that would be
5 brought to your attention one way or the other?

6 A. Yes.

7 Q. And one that you would expect that there
8 would be some kind of investigation to see what happened?

9 A. Yes.

10 MR. COTTER: Those are all the questions I
11 have for you right now. Thank you very much.

12 MR. GONZALEZ: We have no questions.

13 THE VIDEOGRAPHER: The time is 1:58. This
14 ends the deposition. We're now off the record.

15 MR. COTTER: I'll take it.

16 THE COURT REPORTER: Mr. Gonzalez, do you
17 need both copies?

18 MR. GONZALEZ: Yes, ma'am.

19 (The deposition concluded at 1:58 p.m.)
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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, JULIE A. ALLISON, RPR, Shorthand Reporter and
Notary Public, State of Florida, certify that
APRIL GRIFFIN personally appeared before me and was duly
sworn and was personally known to me.

WITNESS my hand and official seal this 6th day of
November, 2013.

Julie Allison

Julie A. Allison, RPR, Notary Public
State of Florida
My Commission: FF 44090
Expires: 08/14/2017

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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, JULIE A. ALLISON, RPR, Shorthand Reporter and Notary Public, State of Florida, CERTIFY I was authorized to and did stenographically report the deposition of APRIL GRIFFIN; that a review of the transcript was requested; and the foregoing transcript, pages 4 through 50, is a true and accurate record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 6th day of November, 2013.

Julie Allison

JULIE A. ALLISON, RPR

November 7, 2013

APRIL GRIFFIN
c/o THOMAS M. GONZALEZ, ESQUIRE
Thompson, Sizemore, Gonzalez & Hearing, P.A.
201 North Franklin Street
Suite 1600
Tampa, Florida 33602

IN RE: DEPOSITION OF APRIL GRIFFIN TAKEN ON OCTOBER 29,
2013 IN THE CASE OF HERRERA VERSUS HILLSBOROUGH COUNTY
SCHOOL

Dear Sir/Madame:

This letter is to advise you that transcript taken in the above-referenced deposition has been transcribed. Please contact our office at (800)275-7991 to make arrangements to read and sign or sign below to waive review of this transcript.

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter, as considered reasonable under Federal Rules*; however, there is no Florida Statute to this regard.

The original of this transcript has been forwarded to the ordering party. And your errata, once received, will be forwarded to all ordering parties for inclusion in the transcript.

Sincerely,

JULIE A. ALLISON, RPR
Orange Legal, Inc.

Cc: DANIEL W. COTTER, ESQUIRE

Waiver:

I, _____, hereby waive the reading and signing of my deposition transcript.

DEPONENT

DATE

*Federal Civil Procedure Rule 30(e)/Florida Civil Procedure Rule 1.310(e)

0	5	agree 34:18,23 35:4, 10,16,22 36:3 39:8 42:25 43:5 45:3	assistant 24:23 27:5, 7	behalf 47:21
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