

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

IN THE MATTER OF:

**Amy ReVoir,
Petitioner**

v

**Ann Arbor Public Schools,
Respondent**

Docket No.: 18-014416

Case No.: 18-5

Agency: Education

**Case Type: ED Teacher
Tenure**

Filing Type: Appeal

**Issued and entered
this 18th day of March 2019
by: Michael J. St. John
Administrative Law Judge**

**PRELIMINARY DECISION AND ORDER
OF
ADMINISTRATIVE LAW JUDGE**

PROCEDURAL HISTORY

On June 27, 2018, Respondent's Executive Director of Middle Level Education and Respondent's Deputy Superintendent and General Counsel charged Petitioner, a tenured teacher in the district, with 1) Unethical and Dishonest Assessment Practices – Social Studies, 2) Unethical and Dishonest Assessment Practices – ELA Word Generation Common Assessment, and 3) Insubordination. The charges are contained in 45 numbered paragraphs, covering eight pages (Exhibit Jt-1). On June 27, 2018, the Respondent School Board voted to adopt a resolution to proceed on the tenure charges and dismissed the Petitioner from her teaching position (Exhibit Jt-2). On June 28, 2018, the Respondent notified the Petitioner of the charges against her (Exhibit Jt-3). On July 16, 2018, the Petitioner, through her attorney, filed a claim of appeal with the Teachers' Tenure Commission (Exhibit Jt-4). On July 23, 2018, the Respondent, through its attorney, filed an answer (Exhibit Jt-5).

On July 18, 2018, a telephone prehearing conference was scheduled for August 1, 2018. On July 31, 2018, Respondent requested an adjournment of the prehearing conference which was granted, without objection. The adjourned telephone prehearing conference was held as scheduled on August 8, 2018.

The parties stipulated to a consent protective order for the discovery deposition of Jeffrey Gaynor¹ and an Order was entered on September 3, 2018.

On September 14, 2018, Respondent filed a Motion for Summary Disposition. On October 3, 2018, Petitioner filed a Response. On October 5, 2018, the Respondent filed a Reply. On October 9, 2018 oral arguments were heard on the motion. An Order Denying Respondent's Motion for Summary Disposition was issued and entered on October 17, 2018.

Although the hearing was scheduled to begin on Monday October 29, 2018, an expedited special education matter assigned to the undersigned Administrative Law Judge required a one-day postponement of the start of the hearing. One of the Respondent's witnesses, David Cosma, was unavailable except on October 29, 2018 and so his videotaped *de bene esse* deposition was completed on October 29, 2018 and admitted into the record as if he had testified at the hearing, without objection by either party. The undersigned Administrative Law Judge reviewed the videotape of Mr. Cosma's deposition and the transcript of Mr. Cosma's (and all witnesses') hearing testimony.²

The hearing was convened October 30, 2018, and continued October 31, 2018, November 1, 2018, and November 2, 2018. The parties requested the opportunity to present rebuttal witnesses which was granted without exception which occurred November 29, 2018. The Petitioner was represented by attorneys at law Jeffrey S. Donahue and John A. Maise. The Respondent was represented by attorneys at law Barbara A. Ruga and Christopher M. Trebilcock. At the conclusion of the hearing, the parties requested to submit briefs.

The parties submitted stipulated errata sheets to hearing transcript volumes one through four on November 29, 2018. The parties submitted stipulated errata sheets to hearing transcript volume five on January 8, 2019.

Both parties filed timely briefs on January 8, 2019 and timely reply briefs on January 18, 2019. The record was closed on January 18, 2019.

EXHIBITS

The parties jointly submitted the following exhibits (numbers) which were admitted into evidence without objection:

1. June 27, 2018 Tenure Charges
2. June 27, 2018 Board Resolution Authorizing Tenure Charges
3. June 28, 2018 Notice of Tenure Charges
4. July 16, 2018 Claim of Appeal (without exhibits)
5. July 23, 2018 Answer to Claim of Appeal

¹ Mr. Gaynor's discovery deposition is not part of the record. Mr. Gaynor testified at the hearing and his testimony at the hearing is part of the record.

² At Mr. Cosma's *de bene esse* deposition both the Petitioner and the Respondent each objected to one question. Both objections are overruled and the answers to the questions stand.

6. TCI Chapter Tests (Chapters 1-10)
7. 2017-2018 Word Generation Instructional Materials
Petitioner's 2012-2013 through 2016-2017 Year-End Teacher Evaluations
8. Petitioner's 2016-2017 Evaluation Rebuttal
9. Petitioner's April 2017 Email Request for Change of Evaluator
10. Petitioner's February 20, 2018 Individual Development Plan
11. Petitioner's Student Growth Data
12. 2017-2018 Teacher Evaluation Measures for Student Growth

The Petitioner did not submit any independent exhibits.

The Respondent (letters) submitted the following exhibits which were admitted into evidence without objection unless otherwise noted:

- A. Petitioner's December 6, 2017 Lesson Plan
- B. December 22, 2017 Email
- C. January 15, 2018 Email with Study Guide Attachment
- D. January 24, 2018 Emails (2)
- E. Students' Copies of Social Studies Study Guides
- F. Documents Found in Petitioner's Classroom
- G. Study Guides
- H. 8th Grade 1st Semester Common Assessment
- I. January 24, 2018 Memo Regarding Administrative Leave
- J. January 29, 2018 Email
- K. Social Studies Assessment Data
- L. February 13, 2018 Emails (2)
- M. February 14, 2018 Email
- N. Word Generation Study Guide
- O. Word Generation Assessment
- P. Student Statements
- R. English Assessment Data
- S. 2017-2018 Student Handbook
- T. AAPS Policies and Regulations
- U. 8th Grade Social Studies Assessment with Test Questions
- V. Grade Level Content Expectations³
- W. December 14, 2017 Assessment Integrity Guide
- X. Semester 1 Review Game
- Y. May 13, 2018 Letter (from Petitioner to Respondent Board)
- Z. Curriculum Vitae of:
 1. Lisa Anglin, Ed.D.
 2. David Cosma, J.D.
 3. LeeAnn Dickinson-Kelley

³ Exhibit V was admitted over the Petitioner's relevance objection.

- 4. Jazz Parks
 - 5. Brandon Szwejkowski
 - 6. Kevin Karr
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- AA. December 21, 2016 Emails (2)⁴
 - BB. January 16, 2017 Email
 - CC. October 15, 2017 Emails
 - DD. January 15, 2010 Memo
 - EE. January 26, 2018 Letter
 - FF. Petitioner's January 2018 Lesson Plan Calendar
 - GG. April 16, 2015 OSA Compliance Form
 - HH. 2001 Assessment Integrity Guide⁵
 - II. September 16, 2016 Email with Attachments
 - JJ. September 26, 2016 Email
 - KK. January 16, 2017 Email
 - LL. 2016-2017 Word Generation Pre-Post Test and Key
 - MM. April 17, 2017 Email
 - NN. Word Generation PowerPoints
 - OO. Word Generation Activities
 - PP. 7th Grade Geography Fall Pre-Assessment
 - QQ. 7th Grade Geography 1st Semester Common Assessment
 - RR. Petitioner's 2017 Social Studies Pre-Test Results
 - SS. January 29, 2018 Tracking Receipt and Confirmation
 - TT. December 15, 2016 Email
 - UU. Petitioner's March 29, 2017 IDP
 - VV. April 10, 2017 Email

ISSUES

1. Did the Petitioner's Social Studies Common Assessment test preparation methods constitute unethical and dishonest assessment practices?
2. Did the Petitioner's ELA Word Generation Common Assessment test preparation methods constitute unethical and dishonest assessment practices?
3. Did the Petitioner's failure to deliver daily lesson plans after being placed on administrative leave constitute insubordination?

⁴ Exhibit AA was admitted over Petitioner's relevance objection.

⁵ Exhibit HH was admitted over Petitioner's relevance objection.

SUMMARY OF TESTIMONY

The testimony of the witnesses who testified is summarized here – any opinions noted constitute that witness' opinion.

James Grant, 8th Grade Social Studies Teacher

1. Mr. Grant has been teaching with the Respondent for approximately 30 years, the last roughly 23 years at the middle school teaching computers for the first few years and social studies after that time. Mr. Grant was Department Chair for four years and an additional few years shared with another teacher. Mr. Grant was Department Chair for the 2017-2018 school year.
2. A common assessment is a district-wide test designed to compare and contrast students' scores across the district. Every 8th grade student in the Respondent district takes these common assessments (a pre-test at the beginning of the semester and a post-test at the end of each semester). The social studies common assessment for the 2017-2018 school year comes from the SLO from the state.
3. Common assessments are used by the Respondent to measure teacher effectiveness.
4. Test results are entered into computer programs so that the Respondent can manage and analyze the data.
5. Common assessments may or may not be a part of a student's grade – this was left to teacher discretion.
6. Mr. Grant uses the common assessment results to determine students' areas of weakness and to determine if students are making progress and in which areas.
7. The Curriculum Director sent Mr. Grant and the other department chairs an instruction - "do not use the specific questions from the test." (Exhibit AA). Mr. Grant likely did not share this information with the teachers in his department because it contained no new information that would not have already been known by the teachers.

8. The Curriculum Director had the department chairs make the copies of the common assessments to “help with the security of the tests.” (Exhibit BB). Mr. Grant was asked to collect all the common assessment tests and shred them.
9. Mr. Grant expects students to study for the common assessment and attempt to do their best taking that test.
10. Mr. Grant interacted with the Petitioner on an at least weekly basis either personally or professionally.
11. Mr. Grant gave the Petitioner a flash drive at the beginning of the 2016-2017 and 2017-2018 school years which included materials relevant to her new subject areas that she would be teaching. This included practice materials for the common assessments.
12. Mr. Grant created an 8th Grade US History Semester 1 Review Game (Exhibit X). Mr. Grant used this PowerPoint presentation to help students review for the common assessment. Mr. Grant provided this to the Petitioner on the flash drive at the beginning of the 2017-2018 school year. None of the exact questions from the common assessment were included in that PowerPoint. Mr. Grant would not have put exact questions in the PowerPoint because it would have skewed the results and allowed the students to simply study the answers rather than learn the material.
13. Mr. Grant used a study guide as a student assignment although in 2017-2018 he just provided the guide to students. Other teachers used different study guides contained in Exhibit G. Mr. Grant provided the study guide to Mr. Rose who used that material as his own study guide (Exhibit pages 6 through 10). Mr. Fuller also used this same study guide, which was originally a district-wide study guide (that Mr. Grant wrote). None of these study guides use the exact questions and answers on the common assessment – Mr. Grant feels that this would be inappropriate.
14. The Petitioner’s lesson plans for the substitute teacher (Exhibit A). requested that the substitute teacher provide the common assessment to students and included instructions on the correct answer for question #12.
15. Mr. Grant does not believe that the Petitioner consulted with him regarding this lesson plan (Exhibit A).

16. Mr. Grant has never provided students with the questions and answers from the common assessment because it is not appropriate as it only teaches students to memorize answers rather than to learn the material being tested.
17. The Petitioner never consulted with Mr. Grant about providing the common assessment questions to students (Exhibit E). Mr. Grant observed that Exhibit E is the questions from the common assessment with the correct answers circled.
18. At the end of each chapter in the textbook there are questions. Those questions are only in the teacher's version of the textbook – they are not included in students' textbooks,
19. Mr. Grant was on the committee that created the common assessment for 8th grade social studies. The questions were mostly based on the end-of-chapter tests but sometimes wording was changed, or supplemental questions were used. For the 2017-2018 8th grade social studies assessment there were a combination of questions from end-of-chapter test questions (some verbatim and some reworded) and questions from other sources.
20. Other teachers shared their study guides with the Petitioner including teacher Corey Williams (Exhibit C).
21. Mr. Grant believes that Mr. Williams' study guide (Exhibit C) is appropriate since it covers the material taught and to be tested without giving the exact questions and answers to be used.
22. The Petitioner had indicated to Mr. Grant that she was anxious about access to the fall common assessment because she was using it as her "SLO2 measure."
23. As of October 13, 2018, all teachers had access to the common assessment.
24. The common assessment was scheduled to be administered during the last week of the fall semester. Teachers were told the date of the assessment on December 22, 2017.
25. Mr. Grant gave the students the study review (Exhibit G) and played the game with them.

26. During the administration of the test, two students brought issues or concerns to Mr. Grant's attention – that they had seen these exact versions of the test previously. In response, Mr. Grant reported these findings to his building principal and assistant principal.
27. Other students discussed with the two students who had reported concerns what had occurred. Mr. Grant was concerned that this would become an issue amongst students and so he reported that to his administrators.
28. Both students who reported the concerns received perfect scores. While not surprising for one of the students, it was surprising for the other student. Mr. Grant believed that this could be a concern.
29. Mr. Grant was frustrated with his district chair about the administration of the common assessment.
30. Mr. Grant, as a teacher, does not determine the validity of the common assessment.
31. Mr. Grant was unaware of any teacher passing out tests with correct answers in advance of the test. He believes that such a practice is unethical. He believes that this tells the students that the assessment is not important and brings into question teachers' integrity. The timing of providing a copy of the common assessment with answers is irrelevant to Mr. Grant's opinion as to the unethical nature of that practice.
32. There was no written rule disallowing providing assessments with answers. Mr. Grant does not believe such a rule is necessary because it is obvious that this practice is unacceptable.
33. Mr. Grant believes that testing integrity is required for all assessments provided to students, regardless of the level of the assessment.
34. Teachers are expected to model the student code of conduct. That code of conduct prohibits cheating. A student who took a photograph of the common assessment with the correct answers noted would be cheating and would subject the student to discipline.

35. Each of the two assessments constituted 12.5% of Mr. Grant's and the Petitioner's evaluations as a teacher to show students' measurable growth.
36. Teachers receive "an extremely minimal" additional compensation for receiving an effective or highly effective rating.
37. SLO1 measures all students whereas SLO2 measures only the lowest performing 30 students.
38. The Petitioner attended professional development part time in social studies and part time in English.
39. The Petitioner would ask Mr. Grant about assignments, content, and how to handle issues with both students and administrators. Mr. Grant believes that he provided the Petitioner with all the support that he could.
40. Mr. Grant received an email from Ms. Langford to report to her office. Mr. Grant went to the building principal and assistant and asked what the meeting was about and was told that it was about the Petitioner. The building principal suggested, three times, that Mr. Grant stop supporting the Petitioner. The principal suggested that Mr. Grant direct the Petitioner to Ms. Wade, who Mr. Grant believed would be unable to provide answers to the Petitioner since he could not get answers from Ms. Wade. This occurred in approximately October of 2017 – prior to the administration of the common assessment. Mr. Grant did not stop providing support to the Petitioner.
41. Ms. Langford asked what types of support Mr. Grant provided to the Petitioner. Ms. Langford also asked what support was provided to the Petitioner from the building administrators. Mr. Grant indicated that he had seen no evidence of support from the building administrators to the Petitioner.
42. Mr. Grant does not believe the 8th grade common assessment is an effective measure of student growth. The assessment was written to be directly linked to the history alive program (TCI) that was being taught for many years. The 8th grade program now focuses on active classroom for many teachers. Mr. Grant believes that the Petitioner was using the TCI program and so the common assessment would be valid for her students.

43. Mr. Grant believes that there is a correlation between the common assessment and the Michigan Department of Education's common standards. The common assessment has the appropriate standard written beside each question.
44. Mr. Grant believes that Mr. Williams' study guide (Exhibit C) is "pretty bare bones" but ultimately effective.
45. During the 2016-2017 school year, the Petitioner came to Mr. Grant regarding her concerns about teaching the curriculum to the students. The Petitioner told Mr. Grant that she was teaching from the TCI program and mirroring what two other teachers were teaching. Mr. Grant suggested that the Petitioner go to her evaluator (Dr. Anglin) to discuss her concerns. The Petitioner told Mr. Grant that he was naïve to think that this would work.
46. Mr. Grant believes that there was anxiety about the common assessment because there was confusion about which assessment would be SLO1 and which would be SLO2 and because these assessments would be used to measure teachers' evaluations of student growth.
47. Mr. Grant believes that any disagreement about the use, validity, or clarity of assessments does not allow a teacher to cheat on a common assessment.
48. Common assessments are secured assessments which requires securing the test prior to administration so that students are not aware of questions or answers prior to taking the test.
49. Mr. Grant believes that the Petitioner's use of her study guide (Exhibit E) which constituted the actual assessment questions and answers constitutes academic dishonesty.
50. Mr. Grant was the coordinator for the word generation test for the 2016-2017 school year. In that capacity he coordinated who did what when with all departments of the school since all departments used the vocabulary words. He also organized and distributed pre- and post-tests. Sixty total words were covered during the 2016-2017 school year.
51. Mr. Grant told all teachers that there would be a pre- and post-test on the vocabulary words. This was done during a staff meeting and several emails. Both the pre- and post-test were 40 multiple choice test questions. The pre- and post-tests were identical.

52. Mr. Grant delivered the pre-test to all teachers who were administering the tests in a manila folder, received them back, and kept them until it was time to administer the post-tests when he gave back the same tests to the teachers (after reviewing them to make sure that no students had marked on the tests which he discarded).
53. During the 2016-2017 school year, test security was occasionally mentioned but was not emphasized. Over the past year, test security has been emphasized much more frequently.
54. On January 16, 2017, Ms. Wade sent an email to Mr. Grant (and the other building leads) to make a test set for each teacher to “help with security of the tests.” Mr. Grant made the copies and provided them to the teachers.
55. Mr. Grant believes that every teacher was told that the pre- and post-tests were the same for both the word generation and social studies tests but this was not emphasized with teachers. Mr. Grant never had a question that the post-test would change and not be identical to the pre-test. This was the point of collecting the pre-tests back from the teachers after they were administered.
56. Teachers who administered the test received copies of the tests (the first pages of Exhibit LL) but not the answer keys (the last two pages of Exhibit LL).
57. Mr. Grant scanned all the bubble sheets and graded the tests – the individual teachers administering the tests did not grade the tests themselves.
58. The school principal at the time asked Mr. Grant to emphasize the word generation tests which is why Mr. Grant sent the March 28, 2017 and April 17, 2017 emails (Exhibit MM). Mr. Grant asked teachers to cover their 15 content-area assigned words and noted that he would be covering all 60 words with his students (not just the 40 on the pre-test).
59. Mr. Grant agrees that an ELA teacher just covering the 40 to-be-tested words would give that ELA teacher’s students an advantage over other ELA teachers.
60. During the 2016-2017 school year, all building teachers used the word generation packets (Exhibit Jt-7). During the 2017-2018 school year only the ELA teachers used the packets.

61. There was no end of unit test for the word generation packets. Mr. Grant did not take words out of the word generation pre-test and use them with students after each unit (as the Petitioner did). The Petitioner's testimony that she was modeling Mr. Grant in giving those post-unit tests was incorrect; Mr. Grant never did that and was unaware of any other teacher utilizing that practice.
62. Mr. Grant created a shared folder that all teachers, including the Petitioner, could access. Mr. Grant referenced the shared folder in his March and April 2017 emails (Exhibit MM). This included the PowerPoints that are Exhibit NN.
63. Mr. Grant created other review materials for the word generation test (Exhibit OO). These were also available to all teachers at Slauson.
64. Mr. Grant was trying to get the opportunity to observe other teachers but was unable to do so. Mr. Grant does not believe the Petitioner ever saw him teach social studies.
65. Mr. Grant never administered practice common word assessment exams with his students because it would be teaching students to memorize the answers which is unethical. Mr. Grant does not believe that anything he ever said or wrote would have condoned that practice.
66. The 7th grade geography pre-assessment was modified slightly for the post-test – one duplicate question was removed, one question was added, and some questions were re-arranged.
67. Teachers enter their SLO1 and SLO2 data into the Stages program which allows the administrator to evaluate student growth which is 25% of teachers' evaluations. The tests and answers are put into the illuminate program which creates the bubble sheets for the students. The bubble sheets are uploaded to illuminate, the data is exported to an excel spreadsheet to calculate student growth which is then what is uploaded into Stages (with a narrative description from the teacher).
68. At the beginning of the 2017-2018 school year, there was confusion about what social studies assessments would be used. The 6th and 7th graders used new measures but 8th graders did not because there was no permission (from the University of Michigan) to use these new measures. In early September of 2017, teachers received word that the new measures would not be used – the previous years' measures (the multiple-choice test and the first amendment essay) would

be used (but flipped as to which test would be SLO1 and SLO2). Mr. Grant believes that the only confusion at the end of September 2017 was which of the two tests would be SLO1 and which would be SLO2, but teachers understood that those would be the two assessments that would be used.

69. There was never any discussion about changing the content of the pre- and post-tests.
70. Teachers were to use the assessments from the courses that they taught the most – only Mr. Grant and the Petitioner were primarily teaching 8th grade social studies and so they were the only two teachers using both SLO1 and SLO2 for their evaluations.
71. Only Mr. Grant and the Petitioner gave the 8th grade social studies pre-tests. The other teachers were told that they did not need to even give the pre-tests and there was some question about whether they would give the post-tests. Mr. Grant believes that he and the Petitioner were aware that they would need to give both the pre- and post-tests to their students and it would be part of their evaluations.
72. Which assessment was SLO1 and which was SLO2 did not matter to Mr. Grant since he was trying to show student growth on both measures. Which assessment was which would not have changed how Mr. Grant taught the covered material.
73. Mr. Grant can think of no legitimate reason to give students the exact questions and answers from the pre-test to students.
74. Mr. Grant believes that test security was much clearer in the second semester of the 2017-2018 school year including the first time he believes that he received district-wide policy on test security. Before that time, Mr. Grant knew that there were assessment security policies and procedures, but he never thought about it because he was using basic-level test security.
75. Mr. Grant, in his March and April 2017 emails (Exhibit MM), emphasized getting the words in front of the students.
76. The teachers who were not using the 8th grade data for their SLOs did not give the 8th grade social studies pre-test. All teachers were to give the post-test,

though, so that there could be comparisons made between teachers across the school.

77. Building administrators made it clear to Mr. Grant that test security for the common assessments was important and to be taken seriously.

78. Mr. Grant did not need training or instruction on how to keep tests secure – he believes that not sharing assessment test questions with students was just common sense.

79. The multiple choice common assessments were originally designed only to be post-tests. Pre-tests were first administered when student growth became a part of teacher evaluations.

C.M., Former 8th Grade Student

80. C.M. attended Slauson Middle School and was an 8th grade student during the 2017-2018 school year. C.M. had Mr. Grant for 8th grade social studies.

81. C.M. understands what a common assessment is and what it is used for.

82. C.M. took all the common assessments seriously and studied for them.

83. C.M. recognized Mr. Grant's review game (Exhibit X) because the questions and answers looked familiar. C.M. recognized Mr. Grant's Semester 1 Study Guide (Exhibit G).

84. C.M. studied for the assessment by looking through the book, looking at the study guide, and studying with her friends in a study group. There were four students in C.M.'s study group, including a student from the Petitioner's class.

85. The Petitioner's student in C.M.'s study group shared the Petitioner's study guide (Exhibit E) with the group.

86. Before the test started, C.M. and another student told Mr. Grant that they had seen the questions and answers before.

87. After the class, C.M. was worried that C.M.'s grades would be affected because C.M. had seen the questions and answers previously. C.M. was worried that C.M. might be in trouble because C.M. had seen the answers to the test before

the test. C.M. believed that it would be cheating to see the answers to a test before taking the test.

88. None of C.M.'s middle school teachers ever gave out exact copies of any of the assessments with answers prior to C.M. taking those assessments.

Brandon Szwejkowski, Slauson Middle School Assistant Principal

89. Mr. Szwejkowski (Mr. Sway) is an Assistant Principal at Slauson Middle School. The 2017-2018 school year was his first year at Slauson.

90. Mr. Szwejkowski's office was near the Petitioner's classroom during the 2017-2018 school year.

91. Tenured teachers such as the Petitioner have two formal classroom evaluations and additional informal (pop-in) evaluations throughout the year.

92. The Petitioner's original evaluator was Mr. Szwejkowski but it was subsequently switched to Kevin Carr because of the Petitioner's request for an outside evaluator. Mr. Szwejkowski served as a co-evaluator with Mr. Carr. Mr. Szwejkowski had no active role in evaluating the Petitioner.

93. In January of 2018, Mr. Szwejkowski learned of concerns about the Petitioner's use of the 8th grade social studies assessment. Mr. Szwejkowski informed the Respondent's administration about the issue and Mr. Szwejkowski became the primary investigator to determine what had occurred.

94. Mr. Szwejkowski obtained a copy two study guides from two of the Petitioner's students. (Exhibit D).

95. Mr. Szwejkowski and Dr. Anglin interviewed students (along with the students' counselors) as part of the investigation.

96. Mr. Szwejkowski spoke with the Petitioner about the issue. A human resources representative and a union representative were also present at that meeting. Mr. Szwejkowski informed the Petitioner what he was investigating. Mr. Szwejkowski then asked the Petitioner if she recognized the two documents in Exhibit D, she did, if she had given the guides to the students, she did, whether students could keep them, they could not (this turned out to be not true), and why the questions

were the same as the common assessment, to which there was no clear answer (a shoulder shrug and no response).

97. After Mr. Szwejkowski's meeting with the Petitioner, the Respondent put the Petitioner on administrative leave. (Exhibit I).

98. Mr. Szwejkowski was directed to escort the Petitioner out of the building which he did.

99. Mr. Szwejkowski never received any lesson plans from the Petitioner.

100 Mr. Szwejkowski never asked that the Petitioner's access to email be restricted.

101 The Petitioner did not leave her district-issued laptop in her classroom.

102 The department heads prepared lesson plans for the Petitioner's classroom.

103 Mr. Szwejkowski found the Petitioner's lesson plan (Exhibit A) on her desk.

100 Mr. Szwejkowski was concerned with the Petitioner's lesson plan (Exhibit A) and particularly the repeated practice assessments and the provision of the common assessment with the correct answers highlighted (Exhibit D). Mr. Szwejkowski was also concerned with the Petitioner's hints and instructions contained on the assessment.

104 .Mr. Szwejkowski collected several students' copies of the Common Assessment that included correct answers marked on the test (Exhibit E).

105 Mr. Szwejkowski also collected study guides from the other social studies teachers at Slauson Middle School (Exhibit G).

106 As Mr. Szwejkowski interviewed students, some of the Petitioner's students indicated that they had received the word generation assessment with correct answers circled (Exhibit N) as study guides.

107 Students prepared statements (Exhibit P) regarding what occurred in the Petitioner's class regarding the study guides.

108 The Student Handbook (Exhibit S) prohibits cheating and collusion.

- 109 Mr. Szwejkowski understood that there was a two-drawer file cabinet in the Petitioner's room where students could get work from class if they had missed the live lesson and where students could obtain their work that was ready to be returned to students. The documents in Exhibit F were found either in that student-work drawer or on or in the Petitioner's desk. Multiple copies of the test, some with correct answers marked and some without those answers marked were found.
- 110 Mr. Szwejkowski concluded that there was an obvious breach in test security and the Petitioner's conduct went against professional practices.
- 111 When Mr. Szwejkowski was a teacher (at the high school level in Milan, MI), he kept his assessments secure. He believes test security is common practice in education. He was even more stringent with common assessments.
- 112 Mr. Szwejkowski is unaware of any other teacher passing out exact test questions and answers either at Slauson or at Milan. He never did it himself because he believes that it goes against the purpose of the assessment.
- 113 Mr. Szwejkowski reviewed teachers' use of the common assessment. The Petitioner did not include the common assessment as part of students' grades. Other teachers used common assessment scores as part of some students' final grades.
- 114 Mr. Grant and the Petitioner used the SLO2 common assessment as part of their teacher evaluation for student growth.
- 115 The Petitioner never asked Mr. Szwejkowski whether it was acceptable practice to use actual test questions and answers with her students or to keep blank copies of assessments in drawers accessible to students.
- 116 Mr. Szwejkowski believes that removal of the Petitioner as a teacher is appropriate because the Petitioner's conduct violates the assessment process. Mr. Szwejkowski believes that the Petitioner's practice removed the need for students to do any work in or on the social studies course.
- 117 Mr. Szwejkowski does not remember the conversation between Mr. Grant and Dr. Anglin about Ms. Langfield's request to meet with Mr. Grant.

118 Mr. Szwejkowski worked with a teacher as part of the teacher's evaluation to improve the teacher's presentation of the material to the students.

119 Mr. Szwejkowski did not do any follow up regarding the Petitioner's lesson plans.

120 The Respondent created a new 8th grade social studies common assessment following the Petitioner's breach in test security.

121 Although a student reported that the student received the 7th grade test (Exhibit P page 9), Mr. Szwejkowski and the Respondent did not investigate this allegation.

122 Mr. Szwejkowski found copies of the 2016-2017 7th grade assessment amongst the Petitioner's materials left behind in her classroom. He has not had time to review these materials in detail.

123 Mr. Szwejkowski is unaware of any actions taken to invalidate any common assessment test scores. Parents were not notified of any testing improprieties.

Sarah Johnson, Slauson Middle School Teacher

124 Ms. Johnson started working for the Respondent as a long term substitute teacher at Slauson Middle School in February of 2018 when she took over the Petitioner's classes. She was hired permanently for the 2018-2019 school year to replace another teacher.

125 Ms. Johnson was unaware of the circumstances surrounding the Petitioner's administrative leave when she was hired.

126 The Petitioner's students told Ms. Johnson that they felt that the class was worksheet-intensive with lots of reading and "heads down" learning.

127 Ms. Johnson assigned the students a reflective writing assignment on her first day at Slauson. One student's assignment gave her concerns about the Petitioner. (Exhibit Q).

128 Other students told Ms. Johnson about the Petitioner playing favorites with students and concerns with testing.

129 Ms. Johnson believes that the Petitioner's students lacked study skills. She needed to spend considerable time working with students on study skills and preparing to take assessments.

130 Ms. Johnson asked the Petitioner's students to bring to class what materials they had to prepare for the test. Students brought copies of the word generation assessment with the correct answers circled (Exhibit N). Copies of the assessments were also in the classroom on a shelf and in the student cabinet.

131 Ms. Johnson was concerned that students had copies of the tests with answers circled on them – this does not allow the test to measure students' learning. That simply measures memorization rather than subject matter knowledge.

132 One component of the English language assessment is the Word Generation multiple choice test which is what Ms. Johnson found in the Petitioner's classroom (Exhibit N).

133 Ms. Johnson believes that it is inappropriate to distribute to students advance copies of the assessments with the correct answers noted. Doing so sets a bad example to set for students and invalidates the data obtained from the assessments. Ms. Johnson sees her role as a teacher to help students develop their integrity and moral compass as well as how they engage with society.

134 Ms. Johnson was not given any written guidance about not distributing tests and answers in advance; she believes that such written guidance is unnecessary since it is common sense for teachers.

135 Ms. Johnson found a large box of CERA (English common assessment) tests that had been taken by students.

136 There were two substitute teachers in the Petitioner's classroom before Ms. Johnson took over.

137 Ms. Johnson believed she was given sufficient information about the curriculum that she was to teach and the assessments she was to administer.

Lisa Anglin, Ed.D., Slauson Middle School Principal

138 Dr. Anglin has been principal of Slauson for two years. She was initially an English teacher, since 2003, and an assistant principal, since 2009, at Pioneer High School both with the Respondent district.

139 Dr. Anglin was the Petitioner's evaluator for the 2016-2017 school year.

- 140 All principals in the Respondent district received training on the Danielson rubric teacher evaluation as part of administrators' professional development. Dr. Anglin also received training on the evaluation and became certified as a Danielson trainer (allowing her to train others on how to administer the evaluation).
- 141 Dr. Anglin performed a first evaluation cycle of the Petitioner but the Petitioner requested another observer/evaluator for the second evaluation cycle. Another principal in the district was assigned to complete the Petitioner's 2016-2017 evaluation.
- 142 Petitioner received a minimally effective rating for the 2016-2017 school year (Exhibit Jt-8). As a result, the Petitioner was placed on an Individual Development Plan (IDP) (Exhibit Jt-8).
- 143 The Petitioner did not sign the 2016-2017 evaluation or submit a rebuttal to her evaluation in the time allowed by the Respondent district. The Petitioner did submit an evaluation rebuttal (Exhibit Jt-9) after the deadline. This was submitted to Ms. Parks, Dr. Anglin's supervisor.
- 144 Dr. Anglin sat down with the Petitioner following her first observation cycle. There was a second sit down meeting after the second observation cycle (by the outside evaluator). Dr. Anglin also met with the Petitioner about the IDP.
- 145 Dr. Anglin observed the Petitioner projecting worksheets with blanks that the students would simply copy down. Dr. Anglin discussed with the Petitioner how to create active learning opportunities allowing students to think critically. Dr. Anglin also wanted the Petitioner to utilize individualized learning.
- 146 Dr. Anglin uses the common assessments to assess where the building is and to determine where professional development may be needed for staff or what assistance may need to be provided to students.
- 147 On January 22, 2018, Mr. Grant reported to Dr. Anglin that two students reported having received the assessment in advance of the administration. Dr. Anglin reported the issue to her supervisor, Ms. Parks. Ms. Parks asked Dr. Anglin to investigate the issue and determine the scope of the impact.

- 148 Dr. Anglin and her assistant, in conjunction with the building's guidance counselors, interviewed some of the Petitioner's students about the assessment and study guide. Dr. Anglin collected students' statements (Exhibit P).
- 149 Dr. Anglin collected the study guides used by the other social studies teachers in the building.
- 150 Dr. Anglin also obtained copies of the English common assessment (Word Generation) given to the Petitioner's students with correct answers circled (Exhibit N). At that time, the Word Generation common assessment had not yet been administered.
- 151 The students told Dr. Anglin that the Petitioner had provided the questions and answers to the common assessment before the administration of the common assessment.
- 152 Dr. Anglin was concerned that the test had been compromised and concerned that the Petitioner's students were being taught to study from the test and just memorize the answers rather than learning the material. Dr. Anglin was also concerned that parents would believe that their students would not be prepared for high school.
- 153 Dr. Anglin asked the Petitioner, via email and U.S. mail, for lesson plans for the Petitioner's classes (Exhibit J). Dr. Anglin never received a response from the Petitioner. She did receive a response from a union representative a few weeks after she was placed on leave, indicating that she did not have access to the appropriate materials to prepare lesson plans. The Petitioner's email access had not been revoked and her laptop had not been returned. Dr. Anglin believes that the Petitioner had access to the necessary materials to provide lesson plans.
- 154 During the course of her tenure with the Respondent district, Dr. Anglin is unaware of any other teacher using actual test questions and answers as test preparation. Dr. Anglin believes that this is bad practice because it does not teach subject matter to students. Dr. Anglin believes that this practice is unethical.
- 155 The scores on the common assessments no longer have any academic value because of the Petitioner's actions.

- 156 Dr. Anglin limited teachers' ability to use the common assessment as part of students' grades. Mr. Grant was not allowed to use the common assessment for his student growth data as part of his teacher evaluation.
- 157 Dr. Anglin worked with the substitute teacher, Ms. Johnson, on providing students with active learning lessons that would be expected of them going into the 9th grade.
- 158 Dr. Anglin responded to a parent concern about the Petitioner's class (Exhibit L) and provided an email to all parents regarding the ongoing situation with the Petitioner's leave of absence (Exhibit M).
- 159 Dr. Anglin believes that the students who were directly involved in the investigation were negatively affected by having to go through that process. The Respondent district also had to re-teach the Petitioner's students about how to prepare for assessments. Dr. Anglin also believes that the Petitioner's students needed to be reassured that they had the capacity to learn by providing high expectations.
- 160 Dr. Anglin believes that this incident had a negative impact on the building's climate. She also believes that there was a negative impact on the administration and building's reputation.
- 161 Although Dr. Anglin did not make the decision to dismiss the Petitioner, she agrees with the decision because the Petitioner's actions were unethical and there was a negative impact on the students.
- 162 Dr. Anglin believes that, to the best of her ability, she was able to prepare the Petitioner's students for high school.
- 163 All the Petitioner's (approximately 120) students were impacted by the assessment issue and some other teachers' students (who studied with the Petitioner's students) were also impacted.
- 164 Dr. Anglin asked human resources about any history for the Petitioner to help assist her in preparing the Petitioner's IDP. The human resources professional told Dr. Anglin to ask her prior principal: Mr. Morrissey. Mr. Morrissey gave Dr. Anglin very minimal information about the Petitioner.

- 165 Dr. Anglin did not have access to the Petitioner's prior evaluation until the summer of 2017. This evaluation was not helpful to Dr. Anglin because the Petitioner's role at the prior school was different (not an assigned classroom teacher).
- 166 The Petitioner's 2016-2017 evaluation (Exhibit Jt-8) was ineffective in planning and preparation and instruction, minimally effective in the classroom environment and professional responsibilities, and highly effective in student growth. Dr. Anglin had no questions or concerns about the students' growth.
- 167 Based on her observations of the Petitioner, Dr. Anglin reviewed the Petitioner's grades. Dr. Anglin found that all students were receiving an A which caused Dr. Anglin to believe that the Petitioner was not properly assessing students' learning.
- 168 Dr. Anglin provided support to the Petitioner as much as the Petitioner allowed her to do so in the 2016-2017 school year. Dr. Anglin was not the Petitioner's evaluator during the 2017-2018 school year and so did not provide the Petitioner support during that school year.
- 169 Dr. Anglin remembers telling Mr. Grant what was and what was not appropriate instructional leadership. Dr. Anglin denies telling Mr. Grant not to assist the Petitioner but did tell him not to provide the Petitioner all of his lesson plans.
- 170 Dr. Anglin believes that the Petitioner was not responsive to her feedback that the Petitioner's methods of instruction were not best practices and were not what the other teachers were using in their classrooms.
- 171 As part of her investigation, Dr. Anglin learned that there may have been testing improprieties in 2016-2017, but the focus of her investigation was on the 2017-2018 school year. Dr. Anglin was concerned about those students and spoke with some of the parents who had the Petitioner for two years in a row.
- 172 Dr. Anglin did not have any evidence of cheating by the Petitioner during the 2016-2017 school year.
- 173 Dr. Anglin expected lesson plans from the Petitioner and when she did not receive them she emailed and mailed those expectations/request for lesson plans to the Petitioner (Exhibit J). That email was mailed to the Petitioner on January 29, 2018 and received by her at 3:34pm on January 31, 2018.

174 Dr. Anglin directed the Petitioner to alternate between ELA and social studies district-wide meetings (Exhibit TT). Dr. Anglin wanted the Petitioner to attend both meetings to stay current in both subject areas that she taught.

175 In March of 2017, Dr. Anglin required the Petitioner to attend ELA meetings instead of social studies meeting as part of her IDP (Exhibit UU). Dr. Anglin believed that the Petitioner needed to focus on ELA.

176 Dr. Anglin allowed the Petitioner to observe other ELA teachers and offered the department chair to work with the Petitioner as she needed help.

177 The Petitioner was the first teacher Dr. Angling supervised who was placed on involuntarily leave – the remainder of the teachers went out on voluntarily leave. Dr. Anglin does not believe there is any different expectation for lesson plans whether the leave is voluntary or involuntary.

178 Dr. Anglin did not have a direct conversation with Mr. Klein after the Petitioner went out on leave. Dr. Anglin did know that her supervisors were speaking with Mr. Klein about the Petitioner's leave but does not know the substance of those conversations. Dr. Anglin knew that there were inquiries made by Mr. Klein about whether the Petitioner needed to submit lesson plans.

179 Ms. Parks told Dr. Anglin that it was no longer necessary to send requests to the Petitioner to send lesson plans.

180 The social studies chairs created lesson plans for the long term substitute until Ms. Johnson was hired. They needed to do this because the Petitioner did not provide lesson plans for her classes.

181 Dr. Anglin would provide substitute teacher coverage for teachers if they wanted to observe another teacher.

B.L., Former 8th Grade Student (in Petitioner's ELA Class)

182 B.L. is no longer a student in the Respondent district. B.L. is currently a 9th grade student in another district. B.L. attended Slauson Middle School for three years.

183 B.L. understands what a common assessment is and why and how they are used.

184 B.L. took common assessments at Slauson Middle School and studied for those because he took them very seriously.

185 B.L. took the Petitioner's English Language Arts class. Word generation packets were used throughout the course as well as two novels and handouts/worksheets which were graded and returned to students.

186 B.L. took the ELA common assessment including the word generation component of the test.

187 B.L. and other Petitioner students were given a packet with the first 25 questions of the assessment and subsequently another packet with the second 25 questions. B.L. did not know that these were the assessment questions at the time, but later learned this. The Petitioner went over these packets with the class and correct answers were provided to all students.

188 During the three years B.L. attended Slauson Middle School, no other teacher provided advance copies of any assessments (other than pre-tests) or any answers to those assessments.

Sarah Greene, English Teacher at Slauson Middle School

189 Ms. Greene is an 8th grade ELA teacher at Slauson Middle School and has been for the last six years. She has also been the ELA Department Chair for the last four years.

190 All 8th grade ELA students in the Respondent district take the ELA common assessment. Common assessments are used to determine student growth, make placement choices for students (for the 9th grade English class) and are also used to measure teacher effectiveness.

191 The ELA common assessment for 2017-2018 consisted of four parts: three reading assessments and a word generation test. The four pre-tests are administered early in the school year. The reading post-tests are administered at the end of the year. The word generation post-test is given in March of the school year.

192 Two of the three reading assessments require essay answers. One reading assessment (SRI Reading) and the word generation test are multiple choice. The SRI reading test is adaptive and is unique to each student. The word generation test is the same for every 6th, 7th, and 8th grade student in the Respondent district.

- 193 Each teacher has their own word generation test as a classroom set. This test is locked up for test security.
- 194 Ms. Greene does not share the word generation test with students prior to the administration (other than the pre-test) because students would use the test to cheat.
- 195 Ms. Greene does not use any of the word generation test questions to prepare students for the test because she genuinely wants her students to learn these words rather than just memorize the order for the multiple-choice answers.
- 196 Ms. Greene does not believe that the word generation teaching tool (online articles with imbedded vocabulary) is the best tool to use to teach students vocabulary, but it was the best tool that she has.
- 197 Ms. Greene believes that students learning vocabulary is important for them both in life and for future testing (such as the PSAT).
- 198 Ms. Greene learned from the substitute teacher (Ms. Johnson) that students had copies of the word generation common assessment. She had Ms. Johnson go to the administration with this information.
- 199 Ms. Greene does not believe that giving students advance copies of the word generation common assessment is ethical and does not align with her professional values. She does not believe that this is role modeling ethical behavior to students.
- 200 Ms. Greene worked with Ms. Johnson about strategies for teaching students vocabulary (other than giving students an advance copy of the test).
- 201 Teachers could use the word generation test to show student growth as part of the teachers' evaluation.
- 202 The Petitioner asked for support from Ms. Greene on teaching for the ELA common assessment, in passing in the teacher break room. Ms. Greene went to the Petitioner's room to offer help, was told by the Petitioner that she would not ask for help from Ms. Greene because she would hear about it from administrators, but that the Petitioner would go to other teachers for support.

203 There is website for teachers to help teachers prepare students for the ELA common assessment. None of those materials include the actual assessment questions.

204 Ms. Greene remembers that there was a district-wide email about common assessment test security in early 2018. She is unsure whether this email was prior to the Petitioner's administrative leave.

205 Ms. Greene believes that the Petitioner's actions are cheating, unethical, model inappropriate behavior, and negatively impact the profession.

206 Ms. Greene believes that so long as the assessment is testing students' knowledge of the words and not allowing students to merely memorize questions and answers, that this would be an appropriate study guide for a teacher to utilize with his or her students.

Mark Sobolewski, Social Studies Teacher at Slauson Middle School

207 Mr. Sobolewski has been a teacher since 1999, all of it within the Respondent district, including the last four years at Slauson Middle School. He teaches both 6th and 8th grade social studies courses.

208 Mr. Sobolewski understands common assessments to gauge student growth across the district. The social studies common assessments are used for teacher evaluations.

209 Mr. Sobolewski was told that he would not need to give a pre-test common assessment because that measure was not part of his teacher evaluation. All 8th grade students took the post-test common assessment (Exhibit H) in January of 2018.

210 Mr. Sobolewski prepared a midterm review (Exhibit G pages 4 and 5).

211 Mr. Sobolewski never provided students with the exact questions and answers because he wanted to see how well students would do on the test. He believes that this practice would be unethical.

212 Mr. Sobolewski believes that providing the exact copy of an assessment with the answers circled to students would skew the data because students would do better on the assessment.

213 Mr. Sobolewski is unaware of any written rule prohibiting providing an exact copy of the assessment. For him, no such rule is necessary.

214 Mr. Sobolewski confirmed that the Petitioner's January 18, 2018 mid-term practice (Exhibit E) is an exact copy of the actual assessment administered on Monday January 22, 2018 (Exhibit H).

215 Mr. Sobolewski has never instructed a student on the correct answer(s) on a common assessment and never would do that because it is unethical.

216 Mr. Sobolewski agreed that there was confusion surrounding the social studies 2017-2018 common assessment. This was mostly regarding the timing of the assessment and whether it would ever be given. No other common assessment version was ever circulated to the teachers.

217 Mr. Sobolewski believes that whether the common assessment is a part of a student's grade is teacher-determined. He does not use it as part of his students' grades. The common assessment is not used to determine students' high school placement.

218 The questions that form most of the common assessment come from the textbook end-of-chapter tests. Mr. Sobolewski did not administer those tests to students, but some other teachers did use those. There was no directive from the Respondent district not to use those tests with students. If a student had taken those tests, the student would have seen most of the common assessment questions prior to the common assessment being administered.

219 There have been revisions to the 8th grade social studies common assessment questions over the years.

220 Mr. Sobolewski shreds his tests after he administers the common assessments for test security (so students do not obtain a copy of the tests).

221 If students obtained a copy of the common assessment in advance that would be considered cheating.

222 Mr. Sobolewski uses parts of the textbook but also uses other outside resources in teaching his 8th grade social studies course.

223 The 8th grade social studies curriculum covered United States history from the Revolutionary War through the Civil War. There were no specifics about what to teach students or what areas of those time periods to focus on.

Maria Murphy, English Teacher at Slauson Middle School

224 Ms. Murphy has been employed with the Respondent district for 28 years – the first four years as a substitute teacher and the last 24 years at Slauson Middle School. During the 2017-2018 school years she taught four sections of English including one section that she co-taught with the Petitioner.

225 Ms. Murphy explained the four components of the English common assessment which she administered to her students. This included the word generation portion of the assessment (Exhibit O).

226 After Ms. Murphy administered the word assessment pre-test to her students, she believes that she returned the tests to the curriculum director. She maintained the security of the word generation assessment.

227 Ms. Murphy might have allowed a student to review the word generation assessment in class but would not have allowed a student to keep a copy of the common assessment. She does not believe that this has occurred but would see no issue with allowing a student to review the material in class.

228 Ms. Murphy has never given a copy of the word generation assessment to students other than the pre- and post-test administrations. She has never given a copy of the assessment with the correct answers circled on it. She uses a different form of review: the words and definitions.

229 Ms. Murphy does not believe that the actual assessment should be used between the two test administrations.

230 Ms. Murphy is unaware of any teachers who use the common assessment with correct answers circled as a test review in preparation for the assessment.

231 Ms. Murphy, somewhat reluctantly, agreed that providing the common assessment and answers in advance of the test would be unethical and violate the professional standards and norms of her profession.

232 Ms. Murphy chooses words that she believes that students will need and provides students with definitions, has them use them in writing, and then quizzes students on those words. She agrees there are many ways to teach vocabulary to students.

233 Ms. Murphy indicated that the word generation assessment measures student growth but is not the best measurement (which she believes is the CERA which asks students to read, interpret, and write).

234 The word generation measures learning of vocabulary words – it may be learned by rote memorization or many other methods.

235 Ms. Murphy used a 50 word list with definitions with her students.

236 In the co-taught course with the Petitioner, Ms. Murphy did most of the instruction with the Petitioner providing support. The Petitioner did not utilize the practice assessment with the answers circled on it (Exhibit N) with Ms. Murphy's students. If the Petitioner had utilized that document, Ms. Murphy would have inquired of the Petitioner whether that was appropriate.

Corey Williams, Social Studies Teacher at Slauson Middle School

237 Mr. Williams is the current Social Studies Department Director, starting in the 2018-2019 school year. This is Mr. Williams' third year at Slauson Middle School. He teaches one section of 8th grade Social Studies.

238 Mr. Williams agrees that common assessments are used to measure student growth and evaluate teachers.

239 Mr. Williams used common assessment scores for 8th grade students' grades if the score helped students' grades, but not if they harmed the students' grades.

240 Mr. Williams does not use the exact questions from the common assessment in preparation for the exam because he wants students to deeply understand the information rather than to merely memorize the questions and answers.

241 Mr. Williams received the December 22, 2018 email (Exhibit B) informing teachers when the 8th grade social studies common assessment would be administered.

242 Mr. Williams administered the 8th grade common assessment (Exhibit H) as a pre-test in the fall of 2017 and as a post-test on January 22, 2018.

243 Mr. Williams identified the state standards next to each question on Exhibit H.

244 Mr. Williams prepared his students for the common assessment by teaching his normal curriculum and provided a study guide (Exhibit G page 2) about a week before the common assessment.

245 Mr. Williams shared his study guide with all Slauson Middle School 8th grade social studies teachers via email (Exhibit C). He believes that other social studies teachers shared test preparation materials with other teachers. Mr. Williams does not believe that the Petitioner shared any study guide with him.

246 Other than the Petitioner, all the 2017-2018 8th grade social studies teachers' study guides are included in Exhibit G. None of those study guides include the questions from the common assessment

247 Prior to the social studies common assessment administration on January 22, 2018, Mr. Williams was unaware of any teacher giving out copies of the common assessment with correct answers.

248 Mr. Williams believes it is unethical to provide students with the common assessment. After the assessment, an email went out instructing teachers not to do this. Mr. Williams did not need this instruction to know not to do this.

249 Mr. Williams confirmed that the same questions, in a different order, are contained in the Petitioner's study guide (Exhibit E) as the common assessment (Exhibit H).

250 Mr. Williams has never instructed students to answer a question in a certain way because it does not provide valid results. Mr. Williams believes this is unprofessional.

251 Mr. Williams believes that teachers need to be role models for students.

252 Mr. Williams' teacher evaluation includes 25% student growth. When students show student growth that helps his teacher evaluation.

253 Mr. Williams does not use the social studies textbook but covers the same materials during the first semester (Native Americans, European exploration, colonialism, revolutionary war, constitution and bill of rights).

- 254 Providing students with the questions in advance allows them to narrow their learning focus and memorize the answers instead of learning the material that is tested.
- 255 Mr. Williams understands that common assessments should only be provided to students when the tests are being administered.
- 256 The common assessment does not test for a deeper understanding of material because it is difficult to test for a deeper understanding of material with a multiple-choice test.
- 257 Mr. Williams received study guides from Mr. Grant when he started working at Slauson Middle School.
- 258 When Mr. Williams encounters a test question that contains multiple correct answers he either changes or drops the question (for his own tests) or reports the problem questions (for common assessments).
- 259 Mr. Williams is unaware of any instruction that prevented or warned teachers against using the textbook's end-of-chapter tests.
- 260 Mr. Williams does not believe that the 8th grade social studies common assessment is a good measure of student growth. A better measure would be the students' ability to discuss the material in depth. Mr. Williams agrees that the fact that the assessment is not a good measure of student growth does not give license for any teacher to cheat on the material by providing the test and answer to the students in advance of the assessment administration.
- 261 Mr. Williams was confused at times by the timing and content of the 8th grade social studies common assessment.
- 262 Mr. Williams believes that it would be appropriate to go over a post-test common assessment with students but would not do that with a pre-test since it will be utilized later to test knowledge.

LeeAnn Dickinson-Kelley, Assistant Superintendent

- 263 Ms. Dickinson-Kelley is the Assistant Superintendent for pre-K through 12 instructional development. She started as a classroom teacher 46 years ago in elementary and middle school, served as a building principal, and spent 12 years

as an executive director before her 6 years as an Assistant Superintendent. She was a middle school curriculum advisor for two years (that position is now called department chairperson).

264 Ms. Dickinson-Kelley chairs the Respondent district's advisory committee which addresses common assessments throughout the district. She also chairs the teacher evaluation advisory committee which addresses questions and concerns regarding teacher evaluation – she reviews all common assessments utilized by the Respondent district.

265 The legislature requires a common assessment for purposes of teacher evaluation across all teachers of each subject.

266 Ms. Dickinson-Kelley identified the 8th grade common assessment (Exhibit H) including the state's grade-level content expectations (Exhibit V) which have remained the same since 2007.

267 Ms. Dickinson-Kelley believes it would be inappropriate for the Respondent district to update the social studies common assessments until the State of Michigan updates the social studies standards.

268 Ms. Dickinson-Kelley reviewed the information presented to her regarding the Petitioner's conduct surrounding the administration of the common assessments. This included Exhibits A, D, E, G, N, and possibly P. Ms. Dickinson-Kelley also reviewed the assessment results and spoke with the individuals who conducted the investigation.

269 Ms. Dickinson-Kelley concluded that the use of the common assessment reflected academic dishonesty, that students were coached to give the correct answer, and that this was a deliberate and ongoing attempt to do so (rather than a one-time mistake).

270 Ms. Dickinson-Kelley believes that the Petitioner's instruction to the substitute to "beg/plead" for the students to write the correct answer shows a deliberate attempt to cheat by the Petitioner.

271 Ms. Dickinson-Kelley has never before seen such a deliberate attempt by a teacher to cheat.

272 Any assessment guidelines for state-wide testing (Exhibit W) prohibit disseminating the test or coaching students using the test, indicating that these

practices constitute cheating. This guide is used as part of the M-STEP and previously with the MEAP. The Petitioner previously was responsible for administering the M-STEP test (although not during her time at Slauson Middle School).

273 Ms. Dickinson-Kelley believes that using the Petitioner's review guide undermines the entire purpose of education by preventing educators from determining what students have learned and how prepared they are to move on to further education.

274 Ms. Dickinson-Kelley believes that the Petitioner's actions are in violation of good testing practices.

275 Ms. Dickinson-Kelley expects seasoned tenured teachers, such as the Petitioner, to utilize appropriate, ethical, non-cheating practices in administering the Respondent district's common assessments.

276 During her 23 years as a teacher, Ms. Dickinson-Kelley never prepared students by giving students the actual test questions and answers. She did not do this because she believes that it was wrong. Ms. Dickinson-Kelley believes that a rule is not required because teachers should know that this practice is wrong as a part of their basic professional expectations.

277 Ms. Dickinson-Kelley has not encountered any other teacher ever using actual test questions and answers to prepare students for tests.

278 Although Ms. Dickinson-Kelley indicated that there are many ways to prepare students for tests, the Petitioner's conduct does not fall within the scope of acceptable practice. Ms. Dickinson-Kelley believes that teachers must be teaching content and educational understanding and are not permitted to train students to take the test.

279 Ms. Dickinson-Kelley does not believe that the students benefited from the Petitioner's study guide because they were not learning educational content but merely being trained to provide the correct answer. This does not allow a teacher to adjust his or her teaching to improve student learning of the content.

280 Ms. Dickinson-Kelley believes that the Petitioner's students learned a lesson about imperpness and cheating. Ms. Dickinson-Kelley believes that the

Petitioner's conduct deprived her students of the opportunity to show what they had learned about the topics covered on the assessment.

281 Ms. Dickinson-Kelley believes that the Petitioner's conduct delegitimized the common assessment such that the Petitioner's colleagues could not use the assessment to measure their own students' growth.

282 Ms. Dickinson-Kelley believes that there is no justification for the Petitioner to use the assessment and answers as a review with her students to prepare those students for the actual assessment.

283 There was no evidence of an adverse impact of the Petitioner's actions outside of Slauson Middle School.

284 Ms. Dickinson-Kelley indicated that students could keep the common assessment grade as part of their student grade in 8th grade social studies because students (other than the Petitioner's) took it under very different circumstances. The common assessment had academic value for students other than the Petitioner's. Ms. Dickinson-Kelley would agree with a decision to allow the Petitioner's students to utilize the common assessment as part of their grades even though the assessment was invalid for those students.

285 The Respondent district has not done any investigation on the long-term effects of the Petitioner's conduct on her former students; they have no current plans to do any such investigation.

286 Building administrators did not report any concerns with the Petitioner's testing or test preparation practices from prior school years to Ms. Dickinson-Kelley.

287 Ms. Dickinson-Kelley believes that parents might be concerned about the Petitioner's testing and review practices for both the 2016-2017 and 2017-2018 school years.

288 Ms. Dickinson-Kelley is aware that parents contacted other administrators with their concerns about the Petitioner's conduct. No parent contacted her.

289 Ms. Dickinson-Kelley believes that the Petitioner's actions were self-interested and deliberate.

290 Ms. Dickinson-Kelley does not see any evidence that the Petitioner was attempting to hide her cheating/fraudulent actions.

291 Ms. Dickinson-Kelley believes that the Petitioner exhibited poor professional judgement in her actions.

292 Ms. Dickinson-Kelley is unaware whether the substitute teacher (for 12/6/17) was interviewed as part of this investigation or whether that substitute teacher is still utilized by the Respondent district.

293 Ms. Dickinson-Kelley could not merely change the 8th grade common assessment because it cannot then be measured against prior administrations of the assessment.

294 Ms. Dickinson-Kelley recognized that there was confusion about the timing of the administration of the 8th grade social studies common assessment.

295 Ms. Dickinson-Kelley believes that pre-tests should be given in October or November of an academic year.⁶

296 Ms. Dickinson-Kelley would expect a teacher with a question about any common assessment question(s) to address those concerns to the building's department chair.

297 Ms. Dickinson-Kelley would expect teachers to share materials, tips, and techniques with each other.

298 There were no written testing administration policies or procedures distributed to teachers prior to the Petitioner's administrative leave.

299 The Respondent district did not provide example or sample study review guides for the 8th grade social studies assessment to teachers.

300 Ms. Dickinson-Kelley does not believe that the Petitioner broadcast her common assessment study practices to any building administrators or teachers (other than the substitute teacher on December 6, 2017).

301 The Petitioner's intent matters to Ms. Dickinson-Kelley and the decision to terminate her. If there was no intent on the Petitioner's part, Ms. Dickinson-Kelley would still have regarding the Petitioner's teaching practices.

⁶ Pre-test are actually administered as early as possible, ideally before any lessons are covered, to gauge students' understanding of the material prior to learning any material.

M.C. Former Slauson Middle School Student

302 M.C. was an 8th grade student at Slauson Middle School for the 2017-2018 school year.

303 M.C. understood what a common assessment is and what they are used for. M.C. takes common assessments seriously and studies for those post-test common assessments.

304 M.C. had the Petitioner for both English and Social Studies in the 8th grade.

305 M.C. took both the English and Social Studies pre-test common assessments.

306 After M.C. took the social studies pre-test, the Petitioner collected the tests but re-distributed the test as a study guide. He believes that the study guide was an exact copy of the pre- and the post-test. The Petitioner went over the test questions and answers with students. The Petitioner told M.C. and the other students to pick 'quitters' for question #12 because it was controversial.

307 The Petitioner posted the words and definitions in her classroom and provided the word generation study guide that consisted of the exact assessment with the answers circled (Exhibit N).

308 No other teacher ever provided M.C. with a study guide with the exact questions and answers as a study guide or review.

309 The Petitioner gave quizzes and tests at the end of each chapter for social studies. He recognized some of the questions on the common assessment from those end-of-chapter tests.

310 The Petitioner was teaching students why answers were incorrect but also told students what the correct answer was and to select what the correct answer was.

Kevin Karr, Pre-K through 12th Grade International Baccalaureate Education Administrator

311 Mr. Karr has worked for 20+ years with the district, currently as an administrator. He has obtained training in evaluating teachers and has been doing so for the last 20 years for the Respondent district.

312 Mr. Karr was the Petitioner's assigned evaluator for 2017-2018. Ms. Langford was previously assigned to be the Petitioner's evaluator.

313 Mr. Karr prepared Section 1 and the evaluator's comments of the Petitioner's Individual Development Plan (Exhibit Jt-11). The IDP was not finished because the Petitioner was put on leave. Mr. Karr contacted the Petitioner via email to continue to work on in IDP but received no response. The IDP was never completed.

314 The Petitioner uploaded her students' pre- and post-test common assessment results into the STAGES program (Exhibit Jt-12). 41 of the Petitioner's 45 students, 91%, showed student growth which is highly effective for the Petitioner's teacher evaluation.

315 Mr. Karr was not involved in the Respondent's investigation of the Petitioner.

316 Mr. Karr did not have an opportunity to share his draft mid-year summary on the Petitioner's IDP before the Petitioner was put on administrative leave. He is unsure if she had an opportunity to review this material.

317 Mr. Karr did not observe any unethical or fraudulent behavior by the Petitioner.

318 Mr. Karr discussed with the Petitioner the need to establish a baseline of understanding for students, structures for facilitating student participation, areas of need, and other points.

319 Mr. Karr never observed the Petitioner giving students the answers or giving out assessments as study guides.

320 Mr. Karr did observe the Petitioner exhibit a lack of academic rigor in her teaching.

321 One of Mr. Karr's roles and one of the purposes of the IDP is to help the Petitioner improve her teaching practices.

322 The Petitioner told Mr. Karr that she was getting assistance from and consulting with other teachers. Mr. Karr told the Petitioner that this was appropriate for her to do. Mr. Karr believes that it is appropriate for teachers to share study guides, projects, assignments, and lesson plans.

323 Mr. Karr oversees three International Baccalaureate (IB) schools for the Respondent school district including developing curriculum for those programs.

324 Mr. Karr observed the Petitioner twice and met with her an additional seven to nine times. The Petitioner never asked Mr. Karr about appropriate practice for preparing students for the common assessment. The Petitioner never showed Mr. Karr her preparations for the common assessment.

Khazasamieon (Jazz) Parks, Middle Level Education Executive Director

325 Ms. Parks has been in her current position in charge of K-8 education since September of 2016. She was previously a middle school principal and assistant principal for a total of nine years. Prior to coming to the Respondent district she was an assistant principal for a year and middle school (6th, 7th, and 8th grades) English and social studies teacher.

326 As Executive Director for Middle Education she leads and supports all aspects of the middle school programs, particularly leading and guiding the administrators in the middle schools.

327 Parks knew of the Petitioner when Ms. Parks was a middle school principal when the Petitioner was an elementary school teacher at a feeder elementary school. Ms. Parks granted the Petitioner's request for an independent evaluator (initially Mr. McElmeel, the Skyline High School Principal).

328 The Petitioner expressed concern about her evaluation and Ms. Parks wanted the Petitioner to be as supported as much as possible by her administrators without an evaluation getting in the way of that support.

329 The Petitioner requested the opportunity to do a rebuttal to her 2016-2017 evaluation and Ms. Parks extended the deadline to submit a rebuttal. (Exhibit Jt-10).

330 Ms. Parks granted the Petitioner an independent evaluator (Mr. Karr) to guide her through her IDP for 2017-2018 school year.

331 Common assessments are used by the Respondent district as a tool to measure student growth in subject areas throughout the school year and to measure teacher effectiveness. Ms. Parks utilized common assessments when she served as a middle school building administrator.

332 The principals at Slauson contacted Ms. Parks about their concerns with the Petitioner's preparation for the common assessment. Ms. Parks asked the administrators to meet with the Petitioner and investigate the issues.

333 After she reviewed the Petitioner's exam review, Ms. Parks placed the Petitioner on administrative leave.

334 Ms. Parks and Ms. Langford (Executive Director of Human Resources) spoke with the other English and social studies teachers while the building principals (and school counselors) spoke with the students and parents. Ms. Parks also obtained the other Slauson social studies teachers' study guides (Exhibit G).

335 Ms. Parks reviewed the students' statements (Exhibit P).

336 Mr. Parks authored the sticky notes that are on page one of many of the exhibits – she reviewed each of these documents as part of her investigation.

337 Ms. Parks reviewed the study guides from multiple students (Exhibit E).

338 Ms. Parks was concerned that the study guides constituted academic dishonesty by the Petitioner by providing questions and answers to students in advance of the administration of the common assessment.

339 Ms. Parks believes that the Petitioner's use of the study guides was intentional because it was done repeatedly and was an exact replica of the common assessment.

340 As part of the investigation into the social studies review guide, it was discovered that the Petitioner had provided advance copies of the word generation guide in advance of that assessment's administration.

341 Ms. Parks also received multiple copies of the common assessment found in the Petitioner's classroom in an unsecured location.

342 Ms. Parks requested a report on how the Petitioner's students did on the 8th grade social studies compared common assessment with students in Slauson Middle school and throughout the Respondent district. (Exhibit K).

343 The Performance Summary Report (Exhibit K page 2) measured all the Petitioner's students (in all four sections: two social studies and two English). The social studies-only students are measured in the report on Exhibit K page 10; eight additional students were added to this report representing students who were absent at the initial administration.

344 A Performance Summary Report was also done for the English Language Assessment (Word Generation test only) after Ms. Parks' return to work after the test was administered. (Exhibit R page 1).

345 After Ms. Parks placed the Petitioner on administrative leave she spoke with the union vice president (Mr. Klein) about lesson plans. Mr. Klein asked about lesson plans and shared his opinion that it was inappropriate to require a teacher on leave to prepare lesson plans. Ms. Parks indicated that lesson plans were required until it was determined that the administrative leave was long term (when a long term substitute will take over preparing lesson plans).

346 Ms. Parks told Mr. Klein that the Respondent district would help the Petitioner getting access to the needed materials. Ms. Parks noted that the Petitioner had access to her laptop, email, and online materials (ATLAS). Ms. Parks did not and is not aware of anyone else cutting off access to the Petitioner's email access.

347 During her time as a middle school building principal, social studies and English teachers were using common assessments. Ms. Parks observed teachers as part of her role as an assistant principal. She also spoke with teachers about the common assessment and preparation for that assessment. Ms. Parks had never heard of any instance of any teacher using actual exams to prepare students for common assessments in any role that she has ever held.

348 Ms. Parks recommended the Petitioner's dismissal. This decision was made in conjunction with Mr. Comsa, the Assistant Superintendent for Human Resources.

349 Ms. Parks recommended dismissal because it was such an egregious act of academic dishonesty and cheating.

350 Ms. Parks believes that because of the Petitioner's actions, there is not an accurate snapshot of the Petitioner's mastery of her students' social studies content. The assessments also could not be used to measure student growth for teachers' evaluations.

351 Ms. Parks believes that the Petitioner's conduct was intentional because of the repeated nature of the acts, the fact that no other teacher used this practice, no other teacher was aware of the Petitioner's conduct and because it was discovered because of student reports.

352 Ms. Parks would expect an experienced teacher to know and understand that her conduct constituted cheating.

353 Teachers who proctor the state-wide assessments (M-STEP and previously MEAP) receive materials on test security and administration and sign an agreement to keep the testing materials secure.

354 Ms. Parks reviewed the Petitioner's 2016-2017 evaluation and IDP. The fact that the Petitioner had been previously rated as at least effective did not factor into her decision because evaluations prior to 2015-2016 were not particularly stringent.

355 Ms. Parks believes that giving students the answer key is enough to warrant dismissal. This represents a lack of honesty and inability to serve as an unsupervised (day-to-day) professional and role model for students in the classroom.

356 Ms. Parks agrees that the Respondent district did not charge the Petitioner with unprofessional practices or lack of professional judgment.

357 Ms. Parks believes that the Petitioner should be discharged even if her actions were not intentional cheating.

358 The Petitioner did share with her substitute teacher her actions although her colleagues and administrators did not know of her actions.

359 Ms. Parks believes that the substitute teacher acted inappropriately by not reporting the Petitioner's conduct. Ms. Parks she does not know if there was an investigation of that individual or if that substitute is still allowed to teach in the Respondent district.

360 Ms. Parks is unsure whether any English teachers had to change their student growth measure as part of their teacher evaluation.

361 Ms. Parks and the other administrators discussed how and what to tell students and their parents about what had occurred with the common assessments.

362 The Petitioner's students did not have their common assessment scores used as part of their grades. Some other teachers did use those common assessment scores as part of their students' grades.

363 Ms. Parks does not believe that it would be appropriate for an administrator to tell a teacher not to collaborate with another teacher. She would want to determine what the administrator meant by that statement.

364 Ms. Parks was concerned about the Petitioner's conduct with the 7th grade test as well but opted to focus on the Petitioner's conduct during the 2017-2018 school year. Ms. Parks did not want to put those students through an investigation.

365 Ms. Parks reviewed the data from the Petitioner's students for the second semester of 2017-2018 which showed that many students were proficient which Ms. Parks believes shows that their mitigation (having a long term substitute certificated in English and social studies) was successful.

366 Ms. Parks is unsure what the standard deviation for the statistics is for the data pulled in Exhibits K and R.

367 After learning that the lesson plans were not forthcoming from the Petitioner, Ms. Parks did not contact the union representative or the Petitioner.

368 Ms. Parks believes that the Petitioner was insubordinate in her failure to produce lesson plans when asked to do so by the building's administration.

369 Ms. Parks met with the Petitioner during the 2016-2017 school year about a new evaluator. The Petitioner did not tell Ms. Parks what she was doing to prepare

students for common assessments and did not ask Ms. Parks what the appropriate preparation for those common assessments was.

370 The Respondent district uses an outside vendor to obtain building substitute teachers.

371 Ms. Parks finds it hard to believe that the Petitioner could have done what she did without knowing that it was cheating.

372 Ms. Langford has been in her position since April of 2016. The Human Resources Department is responsible for terminating employees' email access and return of property (including her laptop).

373 Ms. Langford has learned that no one has asked for the Petitioner's email access to be terminated. The Petitioner brought her laptop in for service in April of 2018 and was given a loaner laptop.

374 Ms. Langford discovered that the substitute teacher substituted for the Petitioner on several occasions including twice in December of 2017. The Petitioner specifically requested that substitute for her class.

375 That substitute teacher was removed by the building as of January 30, 2018 because the building no longer wanted him to substitute teach for that building. He was removed as a substitute for the district in April of 2018 after receiving other complaints from other buildings.

376 The substitute teacher was not interviewed by the Respondent district.

Lindsey Wagner, Slauson Middle School English Teacher

377 Ms. Wagner has been with the Respondent district for five years, this is her fourth year at Slauson. For 2017-2018 and 2018-2019 she teaches 7th (four sections) and 8th (one section) grade English. She previously taught math and at the elementary levels.

- 378 Ms. Wagner felt thrust into the English curriculum at Slauson Middle School. Unlike mathematics, she has not found directed lesson plans and guidance. She does not feel like she's been given guidance on the curriculum.
- 379 Ms. Wagner has gone to her department chair, Ms. Greene, but she indicated that she was not particularly knowledgeable about the 7th grade curriculum since she did not teach that. Ms. Wagner has gone to another teacher for assistance.
- 380 Ms. Wagner was told to give the 8th grade English common assessments – she was not told of the vision of the test or what they were used for.
- 381 There was a suggested time to start the first word generation article and so it made sense to give the pre-test before that article, but there were no specific dates given. The word generation assessment could be given on paper or electronically.
- 382 Ms. Wagner administered the word generation assessment during the 2017-2018 school year.
- 383 Ms. Wagner believes that the assessments were used to measure student growth as a part of her teacher evaluation.
- 384 Ms. Wagner used each of the word generation curriculum articles with her classes.
- 385 Ms. Wagner believes that the word integration test was geared toward memorization rather than determining whether students were reading and writing.
- 386 Ms. Wagner believes that the reading inventory is the best measure of student growth because it allows students to show mastery of reading and writing. Ms. Wagner also felt that the CERA tests were good measures of student growth.
- 387 Ms. Wagner would check in with other teachers to determine how she was doing but felt overwhelmed. She feels better this year, having completed a year of teaching the assigned curriculum.
- 388 Ms. Wagner does not believe that her common assessments were compromised by the Petitioner's actions. She has never been told that her assessments were compromised.

- 389 Ms. Wagner did not use the common assessments as part of her students' grades.
- 390 Ms. Wagner taught vocabulary curriculum when she taught 1st and 5th grade courses.
- 391 Ms. Wagner indicated that there are multiple methods for teaching vocabulary. Another teacher shared a Kahoot activity with her, but she did not use that activity, so she is unsure what words were on that activity.
- 392 Ms. Wagner was rated minimally effective last year. She has not been with the Respondent long enough to attain tenure.
- 393 Ms. Wagner is unsure whether she received the Word Generation Pretest email sent at the beginning of the 2017-2018 school year. She believes that she learned that the pre-test was available from one of her neighboring teachers.
- 394 There is an English intranet site that contains links to some documents. She did not have access to the site until she requested permission fairly early in the 2017-2018 school year. The site contains some materials and guiding documents, but no lesson plans.
- 395 Ms. Wagner gave the Word Generation common assessment pre-test within the first four weeks of school.
- 396 Ms. Wagner received assistance from Ms. Andrew-Vaughn as part of her IDP.
- 397 Ms. Wagner is unsure whether the common assessments were required to be secured, but because she was unsure, she treated those tests as secure.
- 398 Ms. Wagner does not recall ever speaking with the Petitioner about common assessment test preparation.
- 399 Ms. Wagner never provided an exact copy of the word generation assessment to her students in preparation for the exam. She would have done this only if given permission. Ms. Wagner believes that whether this was permissible is unclear.
- 400 Ms. Wagner created her own study guide.
- 401 Ms. Wagner understands her bottom 30 to mean the bottom 30% of her students based on the previous year's testing (rather than on the current year pre-test).

402 Ms. Wagner feels more prepared to teach her students this year and feels like she has a better understanding of what is expected of her professionally each year that she teaches.

403 Ms. Wagner used her own assessment to prepare for the word generation assessment – about 90 words total including the fifty from the assessment. This was a matching exercise, not a multiple-choice test.

Jeff Gaynor, Current Respondent Board Member and Former Respondent Teacher

404 Mr. Gaynor taught at Clayton Middle School most recently and for 32 years of his total 38 years in the Respondent district. Mr. Gaynor has a B.A. in elementary social studies and a M.A. in English Language Arts.

405 Mr. Gaynor taught 8th grade social studies and was familiar with the 8th grade social studies common assessment. He gave the assessment in his last year of teaching, 2015-2016. Exhibit H appears to be the same as the assessment that he administered.

406 Mr. Gaynor was part of a committee that examined the 8th grade social studies common assessment but no substantive changes were made to the common assessment other than some questions were changed and the questions were matched up to the state standards.

407 Mr. Gaynor believes that multiple choice questions, particularly those that students had already reviewed and given answers on was not the best form of assessment to give students

408 The committee was told that open ended questions could not be used, the questions had to be able to be scored by a computer quickly.

409 Mr. Gaynor believes that the goal of a teacher is not to memorize answers but rather to be able to think about and work with the material.

410 Mr. Gaynor used the end-of-chapter questions from the textbook (Exhibit Jt-6) and used them as part of students' grades. Mr. Gaynor would tell his students that they may see these questions again. Students could keep their tests, with corrections.

- 411 Mr. Gaynor did his best to follow the Respondent's pacing guide when teaching his students, but there was some variation as he felt appropriate.
- 412 Mr. Gaynor taught 6th and 7th grade English for the Respondent district. He created vocabulary lists for his students from the students' curriculum (all subjects). Students copied the list and then used the words in activities later in the week.
- 413 Mr. Gaynor used pre-tests and post-tests when teaching vocabulary to his 6th and 7th grade English students.
- 414 Mr. Gaynor did not participate in the teacher evaluation during his last year of teaching (2015-2016). He is unsure whether student growth from common assessments was a part of teacher evaluations.
- 415 Mr. Gaynor was concerned about the assessment questions having been seen by the students previously (from the end-of-chapter test) because it tested memorization; it trivialized the whole assessment process.
- 416 Mr. Gaynor did not tell his students which test questions from the end-of-chapter tests would be on the common assessment.
- 417 Mr. Gaynor made a point about civil disobedience during one of his classes using an example of not giving the common assessment. As a result, he received a January 15, 2010 memo (Exhibit DD). Mr. Gaynor agrees that teachers are required to give the common assessment.
- 418 During the 2014-2015 school year, Mr. Gaynor also received a memo from his principal regarding the social studies common assessment.
- 419 Mr. Gaynor told his students during the 2014-2015 school year to only answer the questions that he had covered in his classes (the first 17 (or possibly 27) questions of the 42 questions on the test). Mr. Gaynor's principal had him have Russell his students return to the common assessment and complete the test. Because of that incident, Mr. Gaynor received a reprimand. He was also placed on an IDP at that time for an unrelated incident.
- 420 Mr. Gaynor was never a curriculum head at the middle school level.

(Rusty) Fuller, Slauson Middle School Social Studies Teacher

421 Mr. Fuller started teaching full time at Slauson Middle School in 1983. He teaches one class of 8th grade social studies and the rest are 7th grade social studies classes.

422 Mr. Fuller noted that there was considerable confusion about the content, timing, reviews for, and utilization for student grades of the social studies assessments.

423 Mr. Fuller believed that the common assessments were initially used to measure student growth, and then that was added to the teacher evaluations. There was confusion about which assessment would be used for which SLOs.

424 Mr. Fuller met with the University of Michigan assessment team starting during the 2017-2018 school year.

425 Mr. Fuller gave credit to his students (toward their final grade) for reviewing for the common assessment but not for the actual common assessment.

426 Mr. Fuller believes that the 8th grade social studies common assessment measured memorization rather than information utilization.

427 Mr. Fuller gave the 8th grade common assessment multiple-choice questions pre-test during the 2017-2018 school year.

428 Mr. Fuller used the end-of-chapter tests with revisions. He used the multiple-choice questions for a simple baseline and selected and/or added to second and third level questions that he felt were appropriate given the material that he covered with the students.

429 Mr. Fuller graded the end-of-chapter tests, returned the tests to the students, and allowed students to either re-test or do test corrections. Students could keep copies of those tests.

430 Mr. Fuller is unsure whether new teachers are given 8th grade pacing guides. He continues to use it periodically but understands where he should be in the curriculum because of his experience covering the material in past years.

- 431 Mr. Fuller believes that students were aware of what types of questions would be on the common assessment, and particularly that the questions from the end-of-chapter tests would be on the common assessment.
- 432 Mr. Fuller was never told that his 8th grade common assessment scores were invalid; he was not using the grades in any way (for teacher evaluation or student grades) that would require them to be invalidated. He was told that there was a question about the validity of the common assessment.
- 433 Mr. Fuller does not remember ever discussing 8th grade common assessment review with the Petitioner.
- 434 The social studies teachers received their SLOs on October 13, 2017 (Exhibit CC) and specific SLO 1 and 2 on November 30, 2017 (Exhibit Jt-13).
- 435 The concern with giving students the pre-test after the material has been taught is that the pre-test is not valid to measure student growth because it does not measure growth since the student has already learned the material.
- 436 Mr. Fuller kept the common assessment secure because it was being used to measure student growth for the entire semester.
- 437 Mr. Fuller has never told his students which actual questions would be on the common assessment. He would not do that because it is not a great way for students to prepare for the material. He believes that giving the questions to the students in advance would invalidate the common assessment.
- 438 Mr. Fuller would never direct students to the correct answer on an assessment. He would never use an upcoming assessment with students. He would not feel appropriate doing that but cannot comment on whether that would be a violation of professional standards.
- 439 Mr. Fuller believes that he was first told not to publish common assessment scores but posted them subsequently because they were not part of students' grades. There was no reason for Mr. Fuller to believe that his students had not taken the test honestly.
- 440 Mr. Fuller believes that students who had been given the exact test and answers would not have taken the test honestly. Such students could not be compared with students who did not have the test and answers in advance.

441 Mr. Fuller would not ask his students to only cover the 35 multiple-choice test questions because he expects more of his students and expects them to understand more material and how to prepare for tests. He expects students to learn the material, not just how to prepare for a multiple-choice test.

442 Mr. Fuller is unaware of any other teachers that have given the exact questions and answers as a review.

Fred Klein, Teacher and Ann Arbor Education Association President

443 Mr. Klein has worked for the Respondent District for 29 years. He is currently the Association President and was Vice President last year (for six years total). He was on the bargaining team for 18 years. He attended MEA trainings although not on best practices when dealing with school administration.

444 The Petitioner reached out to Mr. Klein about her being placed on administrative leave.

445 Mr. Klein noted that typically when teachers are placed on leave they sever all ties with the district. Mr. Klein told the Petitioner not to go to the building since that would be insubordination. Mr. Klein believes that the Petitioner would need to go to the school to do her lesson plans.

446 Mr. Klein spoke with Ms. Parks about the issue. He was not told to speak with another administrator. Mr. Klein told Ms. Parks that typically teachers do not have contact with the district.

447 Ms. Parks told Mr. Klein that she would get back to him about whether the Petitioner needed to complete lesson plans. Mr. Klein believed that, if the Petitioner was needed to do lesson plans, Ms. Parks would tell her to do so.

448 Mr. Klein never heard from Ms. Parks or any other administrator that the Petitioner should be doing lesson plans.

449 Mr. Klein found Ms. Parks to be straightforward and honest in his dealings with her.

450 Mr. Klein did not see the January 24, 2018 memo placing the Petitioner on leave (Exhibit I).

451 Mr. Klein received and read the January 29, 2018 email (Exhibit J).

452 Mr. Klein believes that he spoke with Ms. Parks before the January 29, 2018 email.

453 Mr. Klein is unsure whether the Petitioner's email was cut off. If the Petitioner had access to her email, it would have been possible for her to prepare her lesson plans.

Amy ReVoir, Petitioner

454 The Petitioner has been a teacher for 25 years. She taught in the Detroit catholic schools, 8 years in another public school system (East China), and for the Respondent since the fall of 2000.

455 The Petitioner has taught grades four through eight, mostly fifth grade. She has a K-6 elementary certification, 6-8 endorsements for social studies and English.

456 The Petitioner has a M.S. in educational leadership and has mostly completed an educational specialist degree.

457 The Petitioner received satisfactory evaluations prior to the change in the evaluation system. Following the change, she received three highly effective evaluations from three different evaluators and then an effective evaluation in a year when there was no SLO data to use.

458 In 2016-2017, the Petitioner received a minimally effective evaluation and was placed on an IDP.

459 The Petitioner was on administrative leave from mid-September to mid-November 2015. There was no discipline issue and no outcome(s) were ever determined. There was an unhappy parent involved in the situation.

460 The Petitioner measured the academic growth of her students daily and measured it in numerous ways, including with assessments.

461 The Petitioner taught 6th and 7th grade social studies and English during her first year (2000-2001) and then went to the elementary level. During 2015-2016 she was a 5th grade teacher initially, moved to a support position at a middle school, and then in March of 2016 she was moved to a long term substitute position assigned to a classroom at that middle school. She returned to middle school at Slauson in 2016-2017 school year.

462 The Petitioner received an effective rating for the 2015-2016 school year (without SLO data). There was no SLO data because she was in multiple classrooms throughout the year.

463 Dr. Anglin evaluated the Petitioner during the 2016-2017 school year.

464 The Petitioner does not believe that there are as many opportunities to interact with fellow faculty at Slauson Middle School as there were for her at the elementary schools where she worked.

465 The Petitioner gave the 6th grade social studies common assessment at the end of the 2015-2016 school year.

466 In 2017-2018, the Petitioner taught two sections of 8th grade English, two sections of 8th grade English, and one academic support course. In 2016-2017 she taught 7th grade social studies and 8th grade English as well as the academic support course.

467 In 2016-2017, the Petitioner chose the 7th grade social studies common assessment as her measure of student growth. She did not receive any training on that assessment although she attended meetings where there was discussion of the common assessment.

468 The Petitioner believes that there was confusion regarding the common assessments in the 2016-2017 school year.

469 The Petitioner gave a social studies pre-test common assessment in September of 2016.

470 The Petitioner had a good relationship with Mr. Grant who was easy to work with and helpful. She discussed with him curriculum, philosophical social studies understandings, and his instructional practices. Mr. Grant provided the Petitioner with a curriculum box that included hard copies of the social studies materials.

471 Mr. Grant also provided an electronic copy of those materials on a flash drive. There were a few lesson plans included.

472 The Petitioner understood in 2016-2017 that the pre-test would not be given to the students again – there would be a different test (either with different questions covering the same material or the same questions in a different order).

473 The Petitioner had heard a rumor that the Respondent district might offer a different social studies common assessment at any time. She understood that there was little to gain from assessing acquisition of knowledge without understanding how students were able to utilize the material.

474 The Petitioner administered the end-of-chapter test to her students as part of their course grade. She would return the tests and go over the test with students, particularly those areas where students had difficulty. There was little time spent on multiple choice questions because most students would get almost all the questions correct. The Petitioner would never just give the right answers – she would have students try to work out the correct answers from resources (usually the textbook). If students could articulate why their answer was correct, points would be given. Students could do test corrections to get additional points on the test. She believes these are all best practices for assessments.

475 The Petitioner believed that the first amendment common assessment was going to be administered on January 22, 2018.

476 Students could keep the end-of-chapter tests after corrections were completed.

477 The Petitioner believes that teachers were highlighting the common assessment questions in the end-of-chapter tests.⁷ She also did this. She does not believe that this is academic fraud or unethical behavior or cheating.

478 The Petitioner would type out the pre-test common assessment questions and include them in the end-of-chapter tests.

479 The Petitioner administered the 7th grade social studies post-test during the 2016-2017 school year. The Petitioner expected the 7th grade test to be different, and

⁷ No other teacher highlighted the common assessment questions in the end-of-chapter tests.

the actual test met her expectation because she believed there were different questions or order.

480 The Petitioner did not keep a copy of the 7th grade social studies pre-test. She asked other teachers for these questions to include in her end-of-chapter tests.

481 The Petitioner uploaded her post-test common assessment results into the teacher evaluation software. The Petitioner did not utilize the post-test results as part of the students' grades and did not go over those materials with the students. She did share the results with students who wanted to know their results but did not put it into the students' gradebook.

482 Dr. Anglin observed the Petitioner more than 10 times during the 2016-2017 school year. Dr. Anglin de-briefed with the Petitioner after two of those observations.

483 The Petitioner was placed on an IDP on March 22, 2017. The Petitioner then requested a new evaluator by phone in late March of 2017 and in writing in April of 2017. Mr. McElmeel then was assigned and observed her twice in the spring of 2017.

484 The Petitioner disagreed with the decision to put her on an IDP. She believes that her being placed on an IDP was not based on her performance but rather done as intimidation and to create a hostile work environment. The Petitioner believes that this was done in retaliation to her testimony to an investigator who was looking into a hostile climate at Slauson Middle School (on March 20, 2017).

485 Being placed on an IDP (and receiving a minimally effective evaluation) resulted the Petitioner not receiving a 1% bonus: approximately \$800.

486 The Petitioner reviewed the ATLAS program almost every day to review curriculum. She noted that the English materials were much more comprehensive and thorough than the social studies curriculum.

487 The Petitioner disagreed with about 95% of Dr. Anglin's observations in her evaluations.

488 The Petitioner would discuss Mr. Grant's practices with Dr. Anglin. She would tell Dr. Anglin that she was trying to put into practice Mr. Grant's practices with any differences that she was utilizing. The Petitioner never went into Mr. Grant's

class despite asking to do so; Dr. Anglin told the Petitioner that she would need to observe other teachers (not Mr. Grant).

489 Dr. Anglin let the Petitioner visit another school along with two other teachers to observe teachers who were good role models for English instruction. This occurred in May of 2017.

490 The Petitioner was hoping to and attempting to model Mr. Grant's curriculum. Dr. Anglin told the Petitioner that she was responsible for the creation of her own curriculum, and that Mr. Grant's curriculum is his own practices.

491 The Petitioner believes that the word generation test was not a primary common assessment.

492 The Petitioner valued the final word generation very little – she did not utilize it in students' grades; only the activities and quizzes went into grades.

493 The Petitioner went to eight required English curriculum meetings and several optional English professional development presentations put on by the Respondent district.

494 In December of 2016, Dr. Anglin instructed the Petitioner to attend English professional development meetings, and in March of 2017, Dr. Anglin instructed the Petitioner to only attend English professional development meetings (not social studies).

495 The Petitioner sought assistance from two other English middle school teachers and Ms. Andrew-Vaughn.

496 The Petitioner understood that word generation was the lowest priority and at least two other teachers did not utilize that program and one taught it only at the end of the semester if all other objectives had been met. The Petitioner understood that she was going above and beyond what other English teachers were doing and that her students were getting a well-rounded look at word generation.

497 During the 2016-2017 school year, the Petitioner proctored the M-STEP test for 7th graders. She reviewed the M-STEP guidance document (Exhibit W). She believed that this applied only to proctoring the M-STEP test.

498 The Petitioner believed that the University of Michigan's assessment process was ready to go starting in the 2017-2018 school year for 6th and 7th graders and by the second semester for the 8th graders. She learned just after the holiday break (January 2018) that this was not the case.

499 The Petitioner taught two sections of 8th grade social studies during the 2017-2018 school year. She had last taught 8th grade in approximately 1997.

500 The Petitioner attended social studies meetings during the 2017-2018 school year.

501 The Petitioner discussed the social studies curriculum with Mr. Grant and received hard and electronic copies of the TCI curriculum materials. There were fewer materials for 8th grade than for 7th grade. There was some material from prior teachers who had taught the material.

502 At the beginning of the year, the Petitioner had been told that the social studies pre-test was to be thrown out. The SLO1 growth measure was to be a bill of rights first amendment writing exercise. SLO2 would not be utilized until the second semester.

503 At the end of October, the Petitioner learned that the social studies common assessment might be utilized during the 2017-2018 school year.

504 In November, the Petitioner was asked to and did practice one of the new University of Michigan practice assessments; she believed that this would be used in January.

505 Right before the holiday break, Mr. Grant communicated to her that the standard common assessment multiple-choice test would be administered.

506 The Petitioner understood that the University of Michigan common assessment would be used the week after the multiple-choice test.

507 The Petitioner administered the social studies common assessment pre-test in the fall of 2018. She received a copy of the test, made copies, and administered it to all the students and immediately received the results of the pre-test after the students uploaded the answer sheets into the computer.

508 The Petitioner did not go over the common assessment with students.

- 509 The Petitioner asked Mr. Fuller about a few questions on the common assessment and learned that a few questions were faulty. She understood how to better teach those areas and to focus on those areas when teaching the materials.
- 510 The Petitioner understood in October of 2017 that she could no longer discuss with Mr. Grant social studies curriculum.
- 511 The Petitioner understood that the social studies common assessment post-test would look similar to, but not be exactly the same as the pre-test. The Petitioner also understood that teachers would administer the bill of rights first amendment assessment which would be SLO1, and the new University of Michigan assessment, which would be SLO2.
- 512 The Petitioner wrote on her lesson plans (Exhibit A) in the green ink that appears on the document. The Petitioner identified the document as the 8th grade common assessment pre-test.
- 513 The Petitioner knew that question #12 was a challenging question for multiple students and that students had challenged these questions during a group discussion. The Petitioner wanted to convey to students that there was a right answer to the test.
- 514 The Petitioner requested that particular substitute teacher because he was an extremely reliable guest teacher who the students liked. She did not request him because he would help her cheat or commit academic dishonesty.
- 515 The Petitioner remembers receiving Mr. Williams' email (Exhibit C) and likely opened the attachment, the semester exam study guide. She printed it to have for future use but did not use it in preparation for the 2017-2018 common assessment.
- 516 The Petitioner had seen Mr. Williams' exam study guide – she does not remember having seen any of other teachers' guides contained in Exhibit G. If she had seen them she would have copied and saved them for future years. She did not use any of these with her students during 2017-2018.
- 517 The Petitioner believed that the 8th grade social studies pre-and post-test would have been slightly different.

518 When the Petitioner provided the substitute teacher the pre-test, she believed that the post-test would be similar but not exactly the same as the pre-test.

519 The Petitioner did not believe that her study guide was improper, unethical, or committing academic dishonesty. She did not give it to students to help them cheat.

520 The Petitioner did not intend to improve her student growth scores or improve her IDP or teacher evaluation.

521 The Petitioner was assigned to teach two sections of 8th grade English independently and one section of 8th grade English co-taught with Ms. Murphy.

522 The Petitioner used the same techniques to teach word generation for 8th graders in 2017-2018 as she did with 7th graders in 2016-2017.

523 The Petitioner originally understood that the word generation assessment was not going to be used at all in 2017-2018; she believed that it had been discontinued at other middle school buildings. In October of 2017, the Petitioner learned that the word generation assessment would be used at Slauson Middle School.

524 The Petitioner found observing Ms. Murphy very helpful and extremely invigorating. Ms. Murphy never told the Petitioner that she was doing something wrong. The Petitioner and Ms. Murphy had limited discussions about instructing word generation.

525 Ms. Murphy and the Petitioner had different philosophies of teaching word generation. The Petitioner believes that word generation has limited value. Ms. Murphy believes that word generation has no value and assigned only 10% of the available word generation articles and activities.

526 The Petitioner gave students the study guides that are Exhibit N in portions.

527 The Petitioner believed that the word generation articles were helpful to students, but the vocabulary was already used by students. The Petitioner believes that the academic rigor of the word generation test is very low because the students already knew most or all of these words.

- 528 The Petitioner gave her students Exhibit N right before the holiday break in December of 2017 and went over the answers in class. She would go over difficult questions or questions where students had trouble.
- 529 The Petitioner does not believe giving her students the activity in Exhibit N was cheating or otherwise academic dishonesty.
- 530 The word generation assessment was not one of her student growth measures for her teacher evaluation.
- 531 The Petitioner received the letter from Mr. Comsa putting her out on academic leave. She received the certified letter late in the day on January 25, 2017. She received it in email the evening of the 24th, but did not receive it until the morning of January 25, 2017.
- 532 The Petitioner spoke with Mr. Klein about her administrative leave from the school's parking lot after she was walked out of the building.
- 533 The vice principal told the Petitioner that emergency lesson plans could be used for three days (after Thursday the 25th which already had lesson plans) which would were to be used through Tuesday January 30, 2017.
- 534 Mr. Klein told the Petitioner that he had spoken with Ms. Parks and that lesson plans were not possible, and that he would get back with her if he had more information.
- 535 The Petitioner did not do lesson plans after her Monday January 29, 2017 conversation with Mr. Klein because she did not believe that she needed to do them. She believes that this conversation was in the mid-afternoon, before the January 29, 2018 email.
- 536 The Petitioner received three copies of requests for lesson plans from Dr. Anglin via certified mail as well as via email.
- 537 The Petitioner never responded to any of Dr. Anglin's emails or certified letters. She only discussed the issue with Mr. Klein.
- 538 The Petitioner never looked at her email after she checked it at home on January 25, 2018.

539 The Petitioner believed that she was doing what her peers were doing and that she was using the best practices that she knew. In reflection, she did not have the information that she needed.

540 The Petitioner believes that she should have found others to ask to obtain the information that she needed.

541 The Petitioner feels terrible that she may have put students at a loss.

542 The Petitioner believes that she would do better with more communication and better/more information.

543 The Petitioner would not prepare her students in the same way if reinstated.

544 The Petitioner called Ms. Wade immediately on January 23, 2018 and sent her two emails to determine where she went wrong. Ms. Wade never returned any of those messages.

545 On January 25, 2018 the Petitioner received the memo in the mail (Exhibit I). She is unsure whether she received a mailed letter from Dr. Anglin on that day, but believes that she received certified letters from Dr. Anglin the next three days.

546 The Petitioner received Mr. Comsa's January 26, 2018 letter (Exhibit EE) via mail on January 26, 2018.

547 The Petitioner received a copy of the January 29, 2018 email via certified mail she believes at about 5:30 p.m. on Monday January 29, 2018. This would have been after the mid-afternoon telephone call with Mr. Klein.

548 The Petitioner did not call Mr. Klein back after she received Dr. Anglin's January 29, 2018 email. She also did not contact anyone at the district regarding lesson plans.

549 The Petitioner still had her Respondent district-issued laptop until April 26, 2018. She does not believe that she had access to the district email. She tried to access her email after that but was unsuccessful. She received an error message about wrong user name and password when she attempted to re-login later on the day of January 25, 2018. She did not try to access her email again.

550 The Petitioner had the electronic version of the TCI materials on her laptop but did not have any of the paper versions of those materials. The Petitioner did not have access to the word generation materials on her laptop or through the Respondent's website.

551 As part of the Petitioner's ongoing assessments on word generation vocabulary she would give students the five common assessment questions from that lesson.

552 The word generation common assessment was not scheduled to be administered in March of 2018.

553 The Petitioner's students would have seen the practice assessment (Exhibit N) again in January of 2018, having done the same thing in December of 2017. This was the same activity in both months. The practice assessment would have taken half of a class period each time.

554 The Petitioner told her students to study the word generation assessment and that they would see these questions again.

555 The Petitioner is unaware of any other faculty members who were using the practice assessment with their students and is unsure where she obtained the information contained in #22 of her Appeal (Exhibit Jt-4).

556 Each word generation article assessment had all of the questions from the assessment covering those words and all previously covered words. The Petitioner's students would have seen the common assessment questions between three and twelve times. For the words covered in article #1, students would have seen those five assessments questions and answers a total of 12 times (articles 1-10 and the complete assessment in December 2017 and January 2018). For the words covered in article #10, students would have seen these common assessment questions a total of 3 times (article 10 and December 2017 and January 2018).

557 The Petitioner admits that the word generation assessment only tests memorization and does not believe that her assessment preparation reduced the academic rigor of the test.

558 The Petitioner admits that her opinion of a test's academic rigor does not give her the right to engage in unethical conduct or further lower the academic rigor of the assessment.

559 The Petitioner used the same word generation practice techniques for 7th grade English when she taught those classes in 2016-2017.

560 The word generation assessment was an option for English teachers to use to show student growth. It was not used as part of her teacher evaluation.

561 The Petitioner is unsure whether seeing assessment questions and answers in advance of the actual assessment provides students an advantage over students who have not seen the questions and answers previously.⁸

562 Word generation was an additional focus measure (SLO2) for all middle schools (Exhibit Jt-13).

563 The Petitioner administered the social studies pre-test common assessment (Exhibit H).

564 The Petitioner asked for and received from one of her colleagues a copy of the 8th grade social studies common assessment.

565 The Petitioner had the substitute administer the first sixteen questions of the common assessment as a quiz-like atmosphere, project the answers overhead, go over the answers, and have the students keep the material.

566 The Petitioner asked the substitute to “PLEASE Beg, Plead students to answer A on REAL test BECAUSE that’s what the test wants”.

567 The Petitioner understood that these questions would be used on either the social studies common assessment or midterm exam. She understood that it was probable that Slauson would administer the common assessment.

568 On December 22, 2017, the Petitioner knew that the common assessment would be given on January 22, 2018.

569 When the Petitioner gave the January 18, 2018 common assessment, she knew that the common assessment would be given on January 22, 2018.

570 The Petitioner had a common assessment practice on January 8, 2018. She is unsure exactly what that day’s in class activity was.

⁸ Providing assessment questions and answers in advance of the assessment clearly does provide students with an advantage.

571 The Petitioner was planning to provide the study guide for the practice assessment (Exhibit D) in December of 2017 as evidenced by her monthly calendar (Exhibit FF).

572 The Petitioner did the word generation practice assessment (Exhibit N) on January 19, 2018 (Exhibit FF).

573 The Petitioner wrote "SLO1" on her calendar regarding the social studies common assessment believing this to be her first growth measure. The Petitioner wrote "SLO II 1st amend" and believed that the bill of rights first amendment was going to be her SLO2 student growth measure. The Petitioner indicated that she is unsure just what she meant by those notations.

574 The Petitioner was set to give a word assessment common assessment on January 24, 2018 but was unable to do so.

575 The Petitioner is unaware of any teacher who used the same assessment practices that she did. She believed that other teachers were using the same questions in their technology applications and that is why she made allegations that she did in her Appeal. She does not remember who these teachers were.

576 The Petitioner taught chapters four through nine in preparation for the common assessment.

577 The Petitioner believes that she acted appropriately in preparing her students for the common assessment. She now concedes that what she was doing was "very obviously not what everyone else was doing. I just didn't know."

578 The Petitioner used similar study guides/practice common assessments in 2016-2017 like she did in 2017-2018.

579 The Petitioner usually only went over test questions that students struggled on but went over all the answers to the common assessments.

580 The Petitioner wanted to narrow the field for students to the 35 questions that she knew were going to be on the common assessment.

581 91% of the Petitioner's social studies students received improved student growth meeting the required target (41 of 45 students).

582 The Petitioner would have told students to answer the common assessment question correctly/what the common assessment correct answer was for any ambiguous questions, of which there were about four or five.

583 The Petitioner agrees that Mr. McElmeel had concerns about the Petitioner's teaching as evidenced in her evaluation (Exhibit Jt-8E).

584 The Petitioner is very upset about Dr. Anglin's evaluation process. She filed a formal complaint against Dr. Anglin. She wrote a letter to the Board about Dr. Anglin the evening of January 24, 2018. The Petitioner never filed a complaint about Mr. McElmeel.

585 On September 20, 2015 the Petitioner's then-principal informed the Petitioner that she was going to be placed on an IDP. She was placed on administrative leave two days later.

586 The Petitioner believed that Mr. Fuller was using something similar to the actual assessment as a study guide. She has learned, based on his testimony, that he was not.

587 The Petitioner also believed that other 8th grade social studies teachers used the exact assessment questions in Kahoot and other activities, technologies, or games.⁹

588 The Petitioner is unsure whether Mr. Grant's Semester 1 Study Guide was on the flash drive (Exhibit G page 3) and is unsure if she had looked at that. That flash drive had hundreds of items on it.

589 The Petitioner believes that her administration of state standardized tests (MEAP and M-STEP) is a strength for her.

590 The Petitioner reviewed the state's guide (Exhibit HH) before administering the M-STEP.

591 The Petitioner reviewed the M-STEP administration guide. She did not review the Assessment Integrity Guide (Exhibit W and HH). The administration guide has a section on testing irregularities.

⁹ The other 8th grade social studies teacher's common assessment review materials on Exhibit G do not contain the exact exam questions.

592 The Petitioner did not believe that she had to do lesson plans following her January 29, 2018 conversation with Mr. Klein.

593 The Petitioner believed that all of the questions on the common assessment came from the chapter tests. She was unaware that a few questions did not come from those end-of-chapter tests.

594 The Petitioner did not believe that the word generation common assessment questions were difficult for 8th graders. She believed that Mr. Grant told her to review those word generation questions repeatedly – after each article and time after time.

595 The Petitioner thought that the post-test common assessment would be slightly different than her practice test.

596 The Petitioner typed Exhibit E herself.

597 The Petitioner changed the answers to Question #13 on her practice assessment.

David Cosma, Deputy Superintendent and General Counsel

598 As part of his responsibilities, Mr. Cosma makes recommendations to the superintendent and the board of education on whether to file tenure charges.

599 Pursuant to state statute, all teacher evaluations must consist of a 25% student growth component.

600 Mr. Cosma sent out the memorandum placing the Petitioner on administrative leave (Exhibit I).

601 Mr. Cosma believes that the Petitioner acted unethically and violated her duty as a role model as well as denied her students proper pedagogy.

602 Mr. Cosma did not interview the Petitioner.

Mr. Cosma believes that the Petitioner intended to cheat likely to improve her evaluations but also possibly for lazy pedagogy.

FINDINGS OF FACT

The initial 45 findings of fact are taken from the Respondent's Tenure Charges (Exhibit Jt-1). Each of these facts has been established by a preponderance of the evidence based on the entire record in this matter:

1. Petitioner Amy ReVoir has been employed by the Ann Arbor Public Schools (Respondent) as a classroom teacher since 2000-2001 school year. Petitioner has acquired classroom teacher tenure within the Ann Arbor Public School System.
2. During the 2016-2017 school year, Petitioner was assigned to teach multiple classes of 7th grade social studies and English language arts at Slauson Middle School.
3. Petitioner received an annual year end evaluation rating for the 2016-2017 year of "minimally effective."
4. Under the terms of the collective bargaining agreement with the Respondent, the minimally effective rating rendered the Petitioner ineligible for a salary increase for the 2017-2018 school year (of approximately \$800).
5. As a result of the 2016-2017 minimally effective rating, Petitioner was placed on an IDP during the second semester of the 2016-2017 school year which continued during the 2017-2018 school year.
6. During the 2017-2018 school year there were six 8th grade social studies teacher teaching 10 sections of 8th grade social studies at Slauson Middle School. There were six 8th grade English language arts teachers teaching ten 8th grade English language arts sections at Slauson Middle School.
7. During the 2017-2018 school year, Petitioner was assigned to teach two sections of 8th grade social studies and two sections of 8th grade English language arts at Slauson Middle School.
8. The student growth component of the 2017-2018 annual evaluation constitutes 25% of the overall evaluation. Petitioner was required to identify the subject which would be the basis for measuring her students' progress through Student Learning Objectives (SLOs).
9. Petitioner and one other Slauson teacher selected social studies common assessments for the student growth component of her 2017-2018 evaluation.
10. District wide, the social studies department scheduled a common assessment to be administered at Respondent middle schools during a window period at the end of the first semester (January 2018). The social studies common

assessment was developed by a committee of Respondent social studies classroom teachers. The social studies common assessment was conducted at Slauson on January 22, 2018.

11. The social studies common assessment is administered to measure student academic growth and subject matter mastery in each social studies class, each middle school, and throughout the Respondent district. The results of the common assessment may be used to provide appropriate academic feedback to students, staff, parents, and the Respondent district about student mastery of the social studies curriculum standards.
12. Teachers may use common assessments as measures of the student growth component of their evaluation and some teachers may incorporate the common assessment results as part of a student's semester or quarter grades at Slauson (usually only when the assessment helps the students' grades).
13. On December 6, 2017, Petitioner directed a substitute teacher to administer a "practice" common assessment to students within the two sections of social studies she was assigned to teach. The questions and correct answers were identified. The lesson plans directed the substitute teacher to allow students to self-correct the "practice" test and then to retain the practice test with the correct answers for future study. Although not an exact replica of the upcoming social studies common assessment, the "practice" common assessment was more than 90% similar. This lesson was in violation of commonly accepted professional and ethical standards.
14. On January 18, 2018, Petitioner distributed a "study guide" for the upcoming January 22, 2018 social studies common assessment with the correct answers clearly marked. Although not an exact replica of the upcoming social studies common assessment, the "study guide" was more than 90% similar to the common assessment.
15. Petitioner distributed the "study guide" without prior consultation or approval.
16. The "study guide" Petitioner distributed on December 6, 2017 and January 18, 2018 violated the normative practices of her peers and the Petitioner's study guide was singularly unique within the social studies department at Slauson.
17. Some of the Petitioner's social studies students prepared for the common assessment by studying with students assigned to other Slauson social studies teachers. As a result, Petitioner's unethical and dishonest conduct tainted not only the administration of the social studies common assessment within the two sections she taught, her misconduct also undermined the validity and efficacy of

the assessment administered in sections taught by other Slauson social studies teachers who were entirely unaware of and did not participate in the Petitioner's unethical and dishonest practices.

18. On January 22, 2018, as scheduled, the social studies common assessment was administered to all social studies sections within Slauson Middle School. During the administration of the social studies common assessment, two students taking the assessment in a classroom not taught by the Petitioner realized that they had previously been given a copy of the common assessment with the correct answers clearly identified, when they had studied with students from the Petitioner's class in preparation for the scheduled assessment. Upon realizing that they had benefited from this practice, these students promptly reported their concern to their teacher, explaining that they had previously received a copy of the assessment with all of the correct answers provided from a student in the Petitioner's classroom. The teacher promptly reported the students' concerns to building administration.
19. On January 23, 2018, Petitioner was interviewed. During the meeting, the Petitioner admitted that she gave her students a "study guide" for the social studies common assessment consistent with those contained in Exhibit E.
20. Students who received the correct answers to the common assessment in the form of a "study guide" performed better on the assessment than their 8th grade peers at Slauson and within the Respondent District as a whole.
21. Petitioner provided her English language arts students with a "study guide" for the ELA word generation common assessment that contained all of the (questions and) correct answers; the "study guide" and common assessment are virtually identical.
22. Respondent hired a certified substitute teacher. The initial substitute was not dual certified in social studies and English; the permanent substitute teacher was dual certified.
23. Petitioner's students performed better on the English assessments than their 8th grade peers at Slauson and within the Respondent District as a whole.
24. Respondent invalidated the English common assessment scores. Slauson teachers were not allowed to use the March 2018 word general common assessment as a measure of student growth in their 2017-2018 evaluation process.

25. On Wednesday January 24, 2018, the Petitioner was notified by email correspondence that she was placed on paid administrative leave effective immediately. The email was sent at approximately 4:34 p.m.; the Petitioner did not read it and so she nonetheless reported for work on January 25, 2018.
26. On January 25, 2018, the Petitioner was notified verbally that she was being placed on paid administrative leave pending investigation and review of her conduct.
27. Petitioner was sent a second notice of placement on paid administrative leave on Friday January 26, 2018 which reiterated her obligation to deliver her lesson plans on a daily basis by 8:00 a.m.
28. On January 29, 2018, Petitioner was directed in writing by her building principal to deliver daily lesson plans by 8:00 a.m.
29. Petitioner never delivered daily lesson plans. Other Slauson teachers and substitutes prepared daily lesson plans until February 14, 2018 when a permanent substitute was hired to prepare daily lesson plans.
30. Petitioner did not follow the directives of administration by failing to provide lesson plans daily. Petitioner did not refuse to provide lesson plans. Petitioner's failure to provide lesson plans stemmed from a misunderstanding between the Petitioner, the union president, and the Respondent's administration.
31. Without more context, the blanket statement, "providing correct answers to students in advance or as part of a scheduled academic assessment constitutes academic dishonesty" is too broad to be established. *Schhisler v Bay City Public Schools* (14-19), *Pack v Board of Education of Mt. Morris Consolidated Schools* (07-53) and *Nadolsky v West Ottawa Public Schools* (05-5) all deal with specific instances of providing correct answers to students as part of academic assessments which constitute academic dishonesty. Petitioner's conduct with respect to the social studies assessment was unethical but not dishonest. Petitioner's conduct with respect to the English assessment was pedagogically unsound but was neither unethical nor dishonest. Petitioner's unethical assessment conduct on the social studies common assessment was obviously wrong and supports a finding of summary dismissal.
32. Petitioner's conduct involved students, was wrong, and there is no need to demonstrate the adverse effect of her misconduct on the instructional process. The Petitioner's conduct did have adverse effects on Respondent district students and staff as well as the assessment practices at Slauson Middle

School.

33. Petitioner's conduct did not violate Board policy 5.1.4 since the grades that she reported were accurate. That the students' grades were inflated as a result of the Petitioner having provided the students' with advance copies of the assessments and answers does not make the scores inaccurate.
34. One Slauson Middle School teacher was required to change his student growth measurement for his year-end teacher evaluation because the Petitioner's conduct on the social studies assessment potentially tainted the results of that assessment in other classes (because other classes' students studied with the Petitioner's students and had access to the test questions and answers in advance of the assessment).
35. Petitioner's conduct does call into question what students know about 8th grade history and vocabulary words versus how prepared they were for those specific common assessments and therefore did deprive 8th grade students and parents of timely and accurate feedback about students' academic growth and subject mastery in social studies and English vocabulary.
36. There was no evidence presented during the hearing that any students not in the Petitioner's sections were "penalized" or "disadvantaged" by the Petitioner's conduct.
37. One Slauson teacher who had selected 8th grade social studies common assessments as a measure of student growth for his evaluation was required to select a different measure for his 2017-2018 school year, through no fault of that teacher. It is unclear what effect, if any, the Petitioner's conduct on the English assessment had on other teachers. There was no evidence that any teacher's evaluation was disadvantaged as a result of the Petitioner's conduct.
38. Petitioner's unethical conduct in preparing students for the social studies common assessment violated her obligation to serve as a role model.
39. There was no evidence presented at the hearing to establish which of the corrective actions the Respondent district took regarding the social studies or English common assessments were necessitated by the Petitioner's conduct and which were merely precautionary.
40. The Respondent incurred additional costs of employing a certified teacher in social studies and English because of the Respondents' decision to terminate the Petitioner's employment and pursuant to state law governing payment of tenured teachers' salary pending resolution of tenure charges. This is a cost

incurred by every Respondent district in every contested proposed dismissal of a tenured teacher (except those that also result in pending criminal charges).

41. There was no evidence presented at the hearing that the Petitioner's conduct caused students to be less motivated to study to covered material.
42. Petitioner's misconduct in preparing her students for the social studies common assessment constitutes academic fraud.
43. The Petitioner's unethical social studies assessment practices are a non-arbitrary or capricious reason for her summary dismissal from her employment from the Respondent school district.
44. The Petitioner's fitness to serve as a teacher is beyond the scope of this hearing and is not adjudicated. The authority to determine the Petitioner's fitness to serve as a public school teacher in the State of Michigan is vested in the Superintendent of Public Instruction, not the Respondent district or the Teacher Tenure Commission.

Based on the entire record in this matter, including the testimony and admitted exhibits, the following additional findings of fact are established:

45. The Petitioner has a K-6 elementary, all certification, 6-8 endorsement, CX, BX for language arts and social studies¹⁰. Her employment history, prior to the events which led up to the tenure charges is as follows:

<u>Date(s)</u>	<u>Event(s)</u>
Approx. 1992–2000	Taught at East China School District Public Schools ¹¹
Fall 2000	Started at Respondent Public Schools at Clague Middle School ¹²
Fall 2001	Assigned to 5 th grade classroom ¹³
June 2008 ¹⁴	Earned Tenure

¹⁰ TR 876. These certificates allow the Petitioner to teach in any general education Kindergarten through fifth grade self-contained classroom, a sixth, seventh, or eighth grade student self-contained classroom (which Respondent district did not have), and sixth, seventh, and eighth grade students in social science or language arts classrooms.

¹¹ TR 875-876

¹² TR 875-877 and 881.

¹³ TR 882.

¹⁴ As noted in the Conclusions of Law, this is the latest date the Petitioner could have obtained tenure and likely obtained tenure with East China Public Schools and therefore tenure with the Respondent in either the Fall of 2000 or 2002.

September 2015 Placed on administrative leave¹⁵

November 2015 End of administrative leave – long term substitute at Forsythe¹⁶

46. The Petitioner taught grades four through eight and most of her time was spent as a fifth grade teacher at elementary schools for the Respondent.

47. The following timeline of events clarifies the relevant events of this case:¹⁷

<u>Date(s)</u>	<u>Event(s)</u>
May 2016	Administered 7 th Grade SS post-test common assessment ¹⁸
Summer 2016	Assigned to Slauson Middle School ¹⁹
September 2016	Petitioner administered ELA and SS pre-tests ²⁰
October 12, 2016	Evaluated by Dr. Anglin ²¹
April 5, 2017	Requested new evaluator – granted ²² Corey McElmeel performed remainder of 2016-2017 evaluations ²³
April 10, 2017	IDP Instituted for 4 th quarter of 2016-2017 school year ²⁴ Petitioner disagreed with IDP ²⁵
Spring 2017	Petitioner administered ELA and SS post-tests
June 12, 2017	Petitioner rated minimally effective for 2016-2017 school year ²⁶
June 12, 2017	Petitioner placed on continued IDP for 2017-2018 school year ²⁷ Petitioner requested new evaluator – granted ²⁸

¹⁵ TR 882.

¹⁶ TR 882.

¹⁷ TR 881.

¹⁸ TR 889.

¹⁹ TR 882.

²⁰ TR 1152.

²¹ TR 883 and Exhibit Jt-x.

²² TR 210 and 600.

²³ TR 601 and Exhibit Jt-10.

²⁴ TR 217-218 and Exhibit Jt-8E

²⁵ TR 1069-1070 and Exhibit Jt-12

²⁶ Exhibit Jt-8E. Petitioner was rated ineffective in planning and preparation and instruction. Petitioner was rated minimally effective in classroom environment and professional responsibilities. Petitioner was not rated effective or highly effective in any domains. As a result of the 2016-2017 social studies multiple choice common assessments, the Petitioner's student growth ratings were highly effective.

²⁷ Exhibit Jt-11.

Kevin Karr performed 2017-2018 evaluations²⁹
Petitioner submitted late rebuttal to 2016-2017 evaluation³⁰
September 18, 2017 Petitioner administered SS pre-test³¹
Unknown date(s) One or more practice common assessment lesson(s)³²
December 6, 2017 “Another practice” common assessment sub lesson plan³³
Fall 2017 Petitioner taught vocabulary and shared all assessment questions³⁴
December 2017 Petitioner handed out blank version of ELA assessment³⁵
December 22, 2017 SS post-test date confirmed for January 22, 2018³⁶
January 18, 2018 Petitioner administered practice SS common assessment³⁷
January 19, 2018 Petitioner administered practice ELA common assessment³⁸
January 22, 2018 Petitioner administered SS common assessment post-test³⁹
January 23, 2018 Petitioner uploaded test results into STAGES⁴⁰
January 25, 2018 Petitioner on administrative leave, directed to provide lesson plans⁴¹
January 28, 2018 Ms. Parks and Mr. Klein discuss whether lesson plans required⁴²
January 28, 2018 Mr. Klein tells Petitioner not to provide lesson plans
January 29, 2018 Petitioner again directed to provide lesson plans⁴³

48. Common assessments have been administered in the Respondent district for at least a decade.⁴⁴ Although continuously used for progress monitoring and

²⁸ TR 602.

²⁹ TR 555.

³⁰ TR 602, Exhibit Jt-10.

³¹ TR 25 and 956.

³² Exhibit A.

³³ Exhibit A.

³⁴ TR 975-978 and 1008-1009.

³⁵ TR 798-79, 1009, Exhibit N.

³⁶ TR 953 and Exhibit Jt-4.

³⁷ Exhibit E

³⁸ TR 1015, 1040-1042 and Exhibit FF.

³⁹ TR 1106 and Exhibit H.

⁴⁰ TR 1060-1061 and Exhibit Jt-12. 91% of students achieved targeted growth qualifying the Petitioner for a highly effective rating on 25% of her 2017-2018 year-end teacher evaluation.

⁴¹ Exhibit I.

⁴² TR 631-632, 861-862.

⁴³ TR 145, 236, 237, 1245, 1252, and Exhibits J and SS.

⁴⁴ TR 22, 379, 772.

school improvement⁴⁵, starting in 2015-2016, common assessments were additionally to measure teachers' student growth as part (25%) of teachers' evaluations.⁴⁶

49. Petitioner's student growth in 2016-2017 was based on the 7th grade social studies multiple choice common assessment.⁴⁷
50. Common assessments are meant to be taken in similar circumstances and conditions by similarly situated students (i.e. all 7th or 8th graders in English or social studies) across the Respondent district to measure how students across the district compare and improve.⁴⁸
51. The Petitioner knew that 25% of her 2017-2018 year-end teacher evaluation would be measured by student growth which would be comprised of SLO1 and SLO2 which would be measured by student performance on the social studies common assessment 35 question multiple choice test and first amendment essay tests.
52. The Petitioner attempted to improve her students' scores on the social studies common assessment by preparing them for that test by repeatedly showing them virtually exact replicas of the test in part and in whole, having them practice that test, giving them the correct answers to the test, and having them take the test home with instructions to study from that test in preparation for the upcoming common assessment. The Petitioner did this with full knowledge that this would inflate her year-end teacher evaluation by showing student growth for students who may have merely learned the correct answers to test questions rather than learned the material that was being tested.
53. The Petitioner attempted to improve her students' scores on English language word generation common assessment tests by giving students exact copies of those tests in pieces with each article taught on the test and then as a whole in advance of what she thought was to be the administration of the word generation common assessment.

The parties stipulated to the following fact which is therefore established:

54. The District Coordinator positions held by Kay Wade and Sara Andrew Vaughn are non-management bargaining unit positions.

⁴⁵ TR 226, 227, 452, 458, 465, 466, and 604.

⁴⁶ TR 23, 215, 216, 409, 453-456, 560, 646, and 647.

⁴⁷ TR 1189. Exhibit Jt-8.

⁴⁸ TR 22, 24, 25, 30, 226, 227, 239, 316, 353, 439, 1211, 1218, and 1219.

CONCLUSIONS OF LAW

Obtaining Tenure

The term “teacher” as used in this act means a certificated individual employed for a full school year by any board of education or controlling board.

MCL 38.71(1).

The term “certificated” means holding a valid teaching certificate, as defined by the state board of education. For purpose of this section, an individual is considered to be holding a valid teaching certificate if the individual has on file with his or her employing school district either an appropriate teaching certificate issued by the state board of education ...

MCL 38.72

As used in this act, “controlling board” means all boards having the care, management, or control over public school districts and public educational care, management, or control over public school districts and public educational institutions ...

MCL 38.73.

... a teacher is in a probationary period during his or her first 4 full school years of employment.

MCL 38.81 (Effective June 11, 1993 – July 18, 2011)

... a teacher is in a probationary period during his or her first 5 full school years of employment.

MCL 38.81 (Effective July 19, 2011 - present)

At least 60 days before the close of each school year the controlling board shall provide the probationary teacher with a definite written statement as to whether or not his work has been satisfactory. Failure to submit a written statement shall be considered as conclusive evidence that the teacher’s work is satisfactory. Any probationary teacher or teacher not on continuing contract shall be employed for the ensuing year unless notified in writing as least 60 days before the close of the school year that his services will be discontinued.

MCL 38.83 (Effective July 10, 1967 – July 18, 2011)

(1) Before the end of each school year, the controlling board shall provide the probationary teacher with a definite written statement as to whether or not his or her work has been effective. Subject to subsection (2), a probationary teacher or teacher not on continuing contract shall be employed for the ensuing year unless notified in writing at least 15 days before the end of the school year that his or her services will be discontinued.

(2) A teacher who is in a probationary period may be dismissed from his or her employment by the controlling board at any time.

MCL 38.83 (Effective July 19, 2011 - present)

(1) Before the end of each school year, the controlling board shall provide the probationary teacher with a definite written statement as to whether or not his or her work has been effective. Subject to subsection (2), a probationary teacher or teacher not on continuing contract shall be employed for the ensuing year unless notified in writing at least 15 days before the end of the school year that his or her services will be discontinued.

(2) A teacher who is in a probationary period may be dismissed from his or her employment by the controlling board at any time.

MCL 38.83

After the satisfactory completion of the probationary period, a teacher shall be employed continuously by the controlling board under which the probationary period has been completed, and shall not be dismissed or demoted except as specified in this act.

MCL 38.91(1).

If a teacher on continuing tenure is employed by another controlling board, the teacher is not subject to another probationary period of more than 2 years beginning with the date of employment, and may at the option of the controlling board be placed immediately on continuing tenure. ...

MCL 38.92

A teacher who has achieved continuing tenure status may appeal to the tenure commission any decision of a controlling board under this act, other than a decision governed by article IV on discharge or demotion of a teacher on continuing tenure, within 20 days from the date of the decision. ...

MCL 38.121

Petitioner is a tenured teacher.

It is appellant's (Petitioner's) burden to prove that he or she achieved tenure. *Babcock v Board of Education of the Kent Intermediate School District* (91-13). The Petitioner is a tenured teacher. It is not entirely clear exactly when the Petitioner earned tenure since little is known about her employment with the East China School District (East China) from approximately 1992 through 2000. If she was assigned to a classroom within her area of certification, she would have obtained tenure with East China and either been hired with tenure by the Respondent or had a two year probationary period with the Respondent. The Petitioner completed eleven years of employment with the Respondent, including "the majority of my time was as a fifth grade teacher"⁴⁹ which is

⁴⁹ (TR 876).

within the Petitioner's area of her certification. Prior to the 2011 amendments to the Teacher Tenure Act, the Petitioner had completed the statutorily required 4 year probationary period with the Respondent district and obtained tenure under the then-in-effect MCL 38.81. Although it is unclear exactly when the Petitioner obtained tenure, it is clear that the Petitioner had obtained tenure by virtue of some combination of the relevant statutes (MCL 38.71, 38.72, 38.73, 38.81, 38.83, 38.91, 38.92) absolutely no later than the end of the 2007-2008 school year and remained on continuing tenure thereafter. Further, the Respondent admitted that the Petitioner had obtained tenure status with the District (Tenure Charges ¶1, Exhibit Jt-1 and Answer ¶3, Exhibit Jt-5) thereby establishing her tenure status. MCR 2.111(C).

Burden of Proof

Respondent bears the burden of proving, by a preponderance of the evidence, each of the allegations set forth in their Tenure Charges (Exhibit Jt-1). *Wescott v Civil Service Commission*, 298 Mich App 158 (2012). Only those charges filed against the Petitioner may form the basis for discipline. *Abrahams v Ann Arbor* (81-3). Contrary to Petitioner's assertion that "Respondent is required to demonstrate by a preponderance of the evidence that Petitioner intentionally cheated in preparing students for social studies and ELA common assessments in order to meet the allegations charged", "any evidence that Petitioner acted negligently falls outside the purview of the charges", and "any finding that Petitioner was negligent would be a violation of Petitioner's due process rights", Respondent is not obligated to prove that the Petitioner acted intentionally. As noted elsewhere, with regard specifically to the social studies common assessment, the Respondent has proven by a preponderance of the evidence the Petitioner's intention, but they are not obligated to do so. The Respondent is only required to establish sufficient facts alleged by a preponderance of the evidence and that their discipline, here termination, was not arbitrary and capricious.

Those facts which the Respondent has and has not established by a preponderance of the evidence have been incorporated as findings of fact numbers 1 through 45 inclusive. Under the Teacher Tenure Act, a teacher may be discharged or demoted only for a reason that is not arbitrary or capricious. MCL 38.101. When a teacher contests the charges against him or her, the district is required to prove the charges by a preponderance of the evidence. *Luther v Board of Education of Alpena Public Schools*, 62 Mich App 32 (1975). The district bears the burden of proof to establish its case by a preponderance of the evidence. *Craig v Larson*, 432 Mich 346, 352 (1989).

As the Michigan Supreme Court has stated, "[p]roof by a preponderance of the evidence requires that the fact finder believe that the evidence supporting the existence of the contested fact outweighs the evidence supporting its nonexistence." *Blue Cross and Blue Shield of Michigan v Milliken*, 422 Mich 1; 367 NW2d 1 (1985). A "preponderance of the evidence" means that evidence which, when weighed with that

opposed to it, has more convincing force resulting in a greater probability that the alleged misconduct occurred. See *Thomas v Miller*, 202 Mich 43 (1918); *Giddings v Saginaw Township Community Schools Board of Education* (92-1).

Arbitrary and Capricious Standard

The issue here then is whether the district has established the alleged misconduct (two counts of unethical and dishonest assessment practices and one count of insubordination) by a preponderance of the evidence and, and if so, whether the Petitioner's discharge is the appropriate discipline for that misconduct or whether discharge is arbitrary or capricious and a lesser form of discipline is appropriate.

A decision is arbitrary or capricious if it is based on whim or caprice and is not considered principled reasoning. *Cona v Avondale School Dist* (11-61) affirmed 303 Mich App 123 (2013) citing to *Chrisdiana v Dep't of Community Health*, 278 Mich App 685 (2008).

Social Studies Common Assessment

The Petitioner's conduct on the social studies assessment may best be described as defying explanation since she tried repeatedly to explain it with differing results but without much success herself. When initially asked about her practices at the January 23, 2018 meeting, the Petitioner denied that the students could keep the study guides (this was untrue) and had no answer for why the study guides were the same as the common assessments.⁵⁰ At the hearing she testified that she was told by other teachers that study guide questions were commonly "pulled from the pretest ... a cut and paste. So they would – if number 11, 12, and 13 fit with chapter six, they would add those on to whichever section fit multiple choice or the analysis section."⁵¹ Every last teacher denied engaging in or telling the Petitioner to engage in this practice. The Petitioner testified that other teachers at Slauson Middle School also used common assessment practice tests with actual test questions from the pre-test with their students.⁵² Again, every single teacher who testified denied engaging in this practice and testified that this practice would constitute cheating.

Most telling is the explanation that the Petitioner herself provided during the hearing by way of her testimony about her guest lesson plans for December 6, 2018:

Q: -- when you provided this (Exhibit A) to Mr. Beech, did you have an understanding about what the social studies post-test was going to look like?

⁵⁰ (TR 140-141, 605-606).

⁵¹ (TR 917)

⁵² TR 1077-1079.

A: No. ... I mean, my guess – my understanding at the time was that it would have a similar format. I could expect it to be on similar chapters, chapters four through nine.

Q: Did you think it was going to be exactly the same as what this document is in front of you, the eighth grade U.S. history fall assessment?

A: No; no.

Q: Okay. When you provided this document at Exhibit A to the substitute to provide to the students, did you think it was improper?

A: No.
Do you think that it was unethical?

A: No.

Did you think it was committing academic dishonesty?

A: No.

Q: Did you intend to give this document to the students to help them cheat?

A: No.

TR 969-790.

Compare the Petitioner's answers at the time of the hearing, after being charged with unethical conduct, with her lesson plans prior to her conduct coming to light:

Task 1: Students will take 'another' practice Common Assessment – Offer students approximately 15ish minutes to work INDEPENDENTLY on this task (room should sound near silent like a testing environment). It's possible that some students may not complete the practice, but it's OK. You have the answer key so if you would display it on the overhead and allow students to self-correct, they may keep the test to use for future study.

ALSO known as
8TH GRADE US HISTORY FALL ASSESSMENT

1. The Declaration of Independence was written to explain

Common Assessment
(8-U3.3.7)

12. "Summer soldiers and sunshine patriots" might best be described as

- A. quitters.
- B. optimists.
- C. fighters.
- D. traitors.

PLEASE Beg, Plead
students to

13. The passage contains

- A. facts about the Continental Army.
- B. anti-British propaganda.
- C. arguments for continuing to fight.
- D. opinions about what to do next.

answer A. on REAL
test ... BECAUSE
that's what the
test wants
From pg 2 passage

14. The Articles of Confederation did all of the following EXCEPT

(A, B, C, D)

There is no reason for the Petitioner to ask Mr. Beech to "PLEASE Beg, Plead [with] students to answer A on REAL test ... BECAUSE that's what the test wants from pg 2 passage" unless the Petitioner believed that her students would see that question, and indeed all of those questions on the real upcoming post-test common assessment. That the Petitioner may have believed that one or two questions may have been replaced or differently worded or in a slightly different order is irrelevant.

The Petitioner would take the questions from the pre-test and add them to the end of each chapter's multiple choice test, even if they were already in the chapter test so that the students would see these questions repeatedly.⁵³ The Petitioner had students take practice common assessments on multiple occasions. The substitute teacher's lesson plan is noted as "another" practice Common Assessment. The Petitioner's January 2018 lesson plans (Exhibit FF) note a review for the common assessment scheduled for January 18, 2018 – four days before the common assessment. The review consisted of the Petitioner giving her students the common assessment questions and the answers and telling the students to study those questions and answers. There is absolutely no reason for the Petitioner to have done all of this unless she knew, or at least was reasonably certain, that her students would see those very same questions again in the form of a post-test that would be used as a significant part of her evaluation as a teacher.

There can be no question that the Petitioner was untruthful in her testimony at the hearing. The Petitioner knew, at the time she repeatedly gave the questions and answers to her students, that her students would see these questions and answers again on the social studies common assessment post-test. The Petitioner knew that

⁵³ TR 919 – 923.

these scores were part of her measure of student growth which, in turn, were part of her end-of-year teacher evaluation.

Student growth makes up 25% of the Petitioner's year-end evaluation, and this common assessment makes up one quarter of that, or 6.25% of her total evaluation. Year-end evaluations differentiate between ineffective, minimally effective, effective, and highly effective teachers. There are monetary incentives for more effective teachers (approximately \$800 per year⁵⁴), additional developmental plan requirements for minimally effective teachers, and potential job consequences for ineffective teachers.⁵⁵ There are clearly incentives for the Petitioner to improve her students' scores on the common assessment. The Petitioner's 2016-2017 Evaluation (Joint Exhibit Jt-8E page 120) shows that her raw score as assessed on her teaching by the administration was 1.01 which placed her just above the cutoff between ineffective and minimally effective. Her planning and preparation and instruction were rated ineffective while her classroom environment and professional responsibilities were rated minimally effective. The Petitioner felt that she was being treated unfairly by the Respondent's administrators and evaluators and felt that she needed the student growth data to bring up her overall year-end teacher evaluation scores.

The Petitioner's actions were neither accidental nor intermittent. She typed these questions from the pre-tests and added them to each of the end-of-chapter tests. She created the practice assessments and study guides (Exhibits A and E) from scratch by re-typing them. Although the Petitioner had access to both a box full of social studies materials and a flash drive full of other social studies study guides, she opted to create her own materials from the pre-test. The Petitioner did so not because she believed that this was the best way to teach her students the material but because she believed that this gave her the best opportunity to show student growth on her year-end teacher evaluation.

The Respondent has established that the Petitioner used unethical and dishonest assessment practices in the preparation of her students for the social studies common assessment and as discussed in further detail below has established that this is a non-arbitrary or capricious ground for discharge.

ELA Common Assessment

The Petitioner utilized a very similar methodology on the ELA word generation common assessment as she used for the social studies common assessment. She taught the material, tested the students from the pretest, and then cut and pasted those pre-test

⁵⁴ TR 930-931.

⁵⁵ Pursuant to MCL 380.1248, individual performance shall be the majority factor in making personnel decisions when conducting staffing or program reductions and pursuant to MCL 380.1249(2)(j), teachers must be dismissed after receiving three consecutive ineffective annual evaluations.

questions into the next article's test. Each article's test then became five questions longer. The first article's test had five questions from that article. The second article test had 10 questions (five from article one and five from article two). The second article had 15 questions (five from article one, five from article two and five from article three). This went on until she taught all ten articles and had the entire fifty question common assessment.⁵⁶ The Petitioner then gave yet another practice ELA common assessment and went over it with students and they could keep the common assessment in the form of a study guide with the correct answers filled in to study from in preparation for the common assessment.⁵⁷

The Petitioner's motivation for repeatedly exposing her English students to the word generation common assessment questions and answers is unclear other than to make her look like a more effective teacher than she really was. There was no direct benefit to her actions on her evaluation as it was not a part of her formal evaluation of student growth measures.

The Petitioner's actions in preparing her students for the word generation common assessment, like the social studies common assessment, clearly constitute poor teaching methodology and pedagogy. Unlike with the social studies common assessment, the Petitioner's actions do not appear to have been done for such obvious personal gain.

The Respondent has established that the Petitioner used poor professional standards and poor academic rigor in preparing her students for the English word generation common assessment and therefore established charge #2 in substantial part. Because the Respondent has fully established Charge #1, it is unnecessary to discuss in further detail Charge #2 or, as noted below to discuss the Szopo factors to determine the impact of this charge or whether discharge would be an appropriate discipline based on this charge alone. Repeatedly providing students with the exact questions and answers to common assessments, regardless of the teacher's motivation for doing so, is grounds for serious discipline up to, and including termination.

Insubordination

The Respondent charged the Petitioner with insubordination for failing to turn in lesson plans after she was placed on administrative leave. There is no question that the district is entitled to require lesson plans from the Petitioner since she is still an employee and the district is continuing to pay her. There is also no question that the Petitioner failed to provide lesson plans. There is, however, at least some question about whether the Respondent excused the Petitioner from her obligation to provide lesson plans. There was a fundamental miscommunication between Ms. Parks and Mr.

⁵⁶ TR 975, 977, 978, and 1005.

⁵⁷ Exhibit N and TR 300, 542, 1009-1012, 1015.

Klein about whether the Petitioner was required to continue providing lesson plans after their discussion. Ms. Parks was under the impression that this was still a requirement and Mr. Klein was under the impression that she was not.⁵⁸ Somewhat incredibly, neither individual confirmed their (mistaken) impression in writing. Mr. Klein contacted the Petitioner and told her not to provide lesson plans to the Respondent.⁵⁹ Given that this is a change in directive, the obligation to confirm the change in responsibility ultimately falls on Mr. Klein to confirm the change and, ultimately, the Petitioner to confirm this change with her supervisor, Dr. Anglin, which she did not do. Instead, the Petitioner (wrongly) assumed that she was relieved of her obligation after her conversation with her union representative.

To be certain, the Petitioner was in a difficult position once placed on administrative leave. She had been accused of cheating and told that she was no longer welcome on school grounds and told not to have contact with school personnel. She believed that she needed access to her classroom to complete her lesson plans. She also believed that she had been relieved of her obligations.

Given the circumstances, however, the Petitioner's failure to follow Dr. Anglin's directive to provide lesson plans can hardly be considered insubordination which requires both knowing and willful violation of a rule, directive, or policy. *Clarence v Jackson* (03-9) citing *Osterman v Bd of Ed of the Stevenson Public Schools* (01-21) and *Willis v Grand Rapids Public Schools* (79-51). The Petitioner's conduct here is neither knowing nor willful and is therefore not insubordination but rather would be better described as a failure to complete an assigned task with for an understandable but ultimately incorrect reason.

The Respondent has proven Charge #3 only in very small part. As noted below, while the Petitioner's failure to turn in lesson plans might be reason for some discipline, it would in and of itself absolutely not be grounds for termination.

Petitioner's Defenses

The Petitioner noted several defenses during the hearing and in her briefs that merit discussion here. The Petitioner notes that the "social studies common assessment was built from the multiple-choice questions taken verbatim from the end of chapter tests." Brief page 4. This is not entirely accurate. Although many of the test questions were taken from the end-of-chapter tests, not all the test questions came from this source⁶⁰. The end-of-chapter tests are contained only in the teacher's guide and contain more than just multiple choice questions, they also include short answer and essay

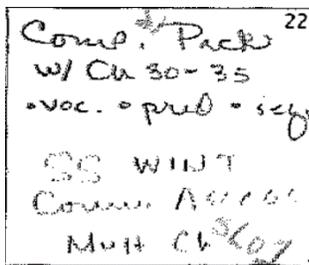
⁵⁸ TR 631-632, 861.

⁵⁹ TR 862.

⁶⁰ Items 18, 19, 21, 22, 24, and 34 were derived from the general standards (TR 629-630).

questions⁶¹ and likely would only be given to students as part of a chapter test. When teachers gave students end-of-chapter tests, those chapter tests would consist of 177 multiple choice questions plus short and long answer essays, of which 29 of those questions would end up on the common assessment. These end-of-chapter tests would not be the exact 35 questions, which is what the Petitioner repeatedly provided to her students in the name of test preparation. Six of the questions on the common assessment were not generated from the end-of-chapter tests.

The fact that the social studies common assessment and the ELA common assessment may need to be redesigned or are not especially effective in measuring student growth are not excuses for the Petitioner's conduct. The fact that the Respondent (or the Petitioner for that matter) did not call Kay Wade as a witness (Petitioner's brief page 17) in this matter has no bearing on this case and no inference will be drawn from this. No matter how poor an assessment is, it is impermissible for a teacher to coach her students to cheat on it. Although there may have been confusion about the assessments, their timing, and which common assessment was going to be SLO1 and which was going to be SLO2, there was no confusion in the Petitioner's mind that the social studies common assessment that she had been steadfastly and meticulously preparing her students for would be part of her year-end evaluation as noted in her January 2018 lesson plans:



Comp. Pack²²
w/ Ch 30-35
• voc. = prob = 12/17
SS WINT
Comm Assess
Mult Ch 30/27

“SS Comm[on] Assess[ment] SLO1”
Exhibit FF

Petitioner's argument that she was unaware that her assessment practices were wrong also rings hollow. The Petitioner has been a teacher for 25 years and has a Master of Science in Educational Leadership and Curriculum Development.⁶² It is difficult to believe that the Petitioner, with that level of education and experience could believe that what she was doing was an acceptable practice. Particularly when two eighth grade students could see that there was something wrong with having previously seen the test and answers in advance of the common assessment,⁶³ it is difficult to believe that the Petitioner was unaware of the error of her ways in advance of her actions. The

⁶¹ TR 51, 902, 906, 911, and 795-798.

⁶² TR 866- 877.

⁶³ TR 69-70.

Petitioner's supposed lack of knowledge of what she was doing was wrong also does not explain why she denied letting the students keep copies of the study guide/assessments and just shrugging her shoulders when first confronted about the issue. The Petitioner's claim that she did not know that what she was doing was wrong is not credible and is rejected.

Petitioner correctly notes that her actions are less severe than prior instances where teachers have been discharged for cheating or academic fraud. In *Schisler v Bay City Public Schools* (14-19) the teacher changed "a lot" of (approximately 120) student answers on an assessment. In *Pack v Bd of Education of Mt Morris Consolidated Schools* (07-53) the teacher provided a student an answer key during the test allowing the student to change the answers on the test and receive an A on the test and gave the student As on projects not performed (amongst other allegations of misconduct). In *Nadolsky v West Ottawa Public Schools* (08-5) the teacher highlighted the correct answers on the student's tests during the tests. In *Bradley v Crestwood* (95-24) the counselor provided improper assistance to student by doing the student's work and allowing the student to turn in the counselor's work for credit to pass a class. Here the Petitioner provided students with the tests and answer keys before the tests allowing the students to study to the tests and dramatically improve their scores without showing mastery of the material. The fact that the Petitioner's misconduct here is less severe than prior teachers' misconduct does not mean that the Petitioner's conduct is acceptable or that the Respondent's decision to discharge the Petitioner is arbitrary and capricious.

Adverse Impact

It is unnecessary for Appellee/Respondent to show the adverse effect of the Petitioner's conduct upon students, staff or the school community because the Petitioner's conduct occurred on school grounds during work hours, involved students, and was inappropriate and unprofessional. *Miller v Grand Haven Board of Education*, 151 Mich App 412, 421; 390 NW2d 255 (1986) lv app den 426 Mich 881.

It is clear here, however, the Petitioner's conduct did indeed adversely affect the students in her classroom since they were deprived of needed instruction. The students assigned to the Petitioner's class did not receive appropriate instruction about vocabulary and American history, but instead were taught the answers to the upcoming common assessments. Students in the Petitioner's class not only did not learn critical thinking skills, but were not even encouraged to memorize dates and places, but instead to memorize answers ("The Answer to Question #13 is C.") When former-student M.C. testified he remembered little of the Petitioner's lesson about American history, but did remember that his teacher, the Petitioner, outright told students the answer to particular 'controversial' multiple choice test questions⁶⁴. This adversely

⁶⁴ TR 540 and 545-550.

impacts students. For those students who were unlucky enough to have had the Petitioner for multiple years and multiple subjects, their learning was affected exponentially – they learned little of several subjects other than tests and answers. It is far less clear that the Petitioner’s failure to provide lesson plans adversely affected her (now former-) students. The Respondents argue both that the Petitioner’s lesson plans were not rigorous enough (which they were not) and that her students were deprived by not having them (which is not at all clear). Instead of the Petitioner’s lesson plans, the students were taught using another teacher’s lesson plans which would seem to have been more beneficial for and to the students.

Appropriate Discipline

The Petitioner’s misconduct clearly warrants discipline. In determining the appropriate level of discipline when the proofs establish teacher misconduct by a preponderance of the evidence, the Commission prior to the 2011 amendments to the Teacher Tenure Act often referred to what is now known as the *Szopo* factors which were first enumerated in the *Szopo v Richmond Community School* (3-60), where the Commission opined as follows:

The measure of discipline to be imposed is a more difficult question. This Commission must be sensitive to the needs of the students and school community while not losing sight of the purpose of the Tenure Act to safeguard the rights of competent individuals to teach. This involves a sensitive balancing process requiring the weighing of policy considerations (e.g., the safety of school children) as well as the nature of the individual misconduct and its effect on students, school, and community.

Although the 2011 amendments to the Teacher Tenure Act changed the standard by which teachers are judged (going from requiring a reasonable and just cause to a reason that is not arbitrary or capricious) the appropriateness of the measure of discipline is still an element to be considered by the Teacher Tenure Commission and therefore this Administrative Law Judge conducting the hearing on their behalf. MCL 38.104 establishes that the Teacher Tenure Commission may adopt, modify, or reverse the discipline proposed by the board; this did not change with the 2011 amendments. The ability to modify the decision of the board is the ability to set the appropriate level of punishment. Indeed, “it is solely within the province of the [Teacher Tenure] Commission to determine the appropriate penalty for teacher misconduct. *Lewis v. Bridgman Public Schools* (On Remand), 279 Mich App 488. The 2011 amendments did not alter this grant of authority, only the standard by which the authority is to be governed. *Cona* (11-61).

The statute itself contemplates the Teacher Tenure Commission modifying the discipline proposed by a school district:

The preliminary decision and order shall grant, deny, or modify the discharge or demotion specified in the charges.

If there are no exceptions timely filed, the preliminary decision and order becomes the tenure commission's final decision and order.
MCL 38.104(i) and (j) respectively.

If exceptions are filed, the tenure commission, after review of the record and the exceptions, may adopt, modify, or reverse the preliminary decision and order.
MCL 38.104(m).

Recent Teacher Tenure Commission decisions have addressed the *Szopo* factors and again reiterated their place in determining the appropriate level of discipline.

We decline to find that the *Szopo* factors are no longer relevant in any tenure appeal. Pursuant to the Teachers' Tenure Act, a PDO may grant, deny, or modify a discharge or demotion specified in charges and, as noted above, this Commission may adopt, modify, or reverse a PDO if exceptions are filed. MCL 38.104(5)(i) and (m). The proper exercise of the discretion thus conferred on the ALJ and this Commission necessarily includes consideration of many factors, including, as appropriate, those identified in *Szopo*. See, for example, *Douglas v Board of Education of the Bridgeport-Spaulling Community Schools* (12-18), *lv den* unpublished order of the Court of Appeals, issued December 13, 2013 (Docket No. 316247), where *Szopo* factors were cited in support of a finding that the controlling board's decision was not arbitrary or capricious. We are persuaded of no reason to adopt appellee's blanket rejection of any consideration of those factors, many of which have guided our determination of the appropriate level of discipline in this case.

Purdun v Ionia (16-5 and 16-7) citing *Bethke v Godwin Heights Public Schools and Board of Education* (15-29).

However, when the decision itself to discharge a teacher is not arbitrary or capricious, it is unnecessary to consider the *Szopo* factors. *Mertz v Byron Center* (17-9); *Lefebvre v Norway-Vulcan* (18-1).

Here the Respondent has established three separate infractions by the Petitioner:

1. Unethical assessment practices regarding the social studies assessment
2. Unsound pedagogical practices regarding the English vocabulary assessment
3. Failure to provide requested lesson plans because of a misunderstanding

The Respondent proved the Board's Charge #1 in full – the Petitioner's use of unethical assessment practices to prepare her students for the social studies common assessment to improve her own student growth scores for her own personal gain. This constitutes a principled reason for discharging the Petitioner from her employment. As noted in *Green, Id.* "once the ALJ found that the controlling board's decision was the result of a deliberate, principled reasoning process in this case, review of the level of discipline was improper." There can be no doubt that unethical practices (cheating) by a teacher is a non-arbitrary and non-capricious reason to terminate a teacher. *Pack, Nadolsky, Bradley, Id.* Given the Respondent's proof of Charge #1 in full, it is therefore inappropriate to review the *Szopo* factors here. It would only be appropriate to review the *Szopo* factors in determining the level of discipline if the Respondent had only proven Charges #2 and #3 since the Respondent established only most of the elements of Charge #2 and only a small aspect of Charge #3. Then, and only then, it would be appropriate for the Administrative Law Judge and the Commission to review the *Szopo* factors to determine whether the Petitioner's unsound pedagogical practices would warrant termination (likely) and whether the Petitioner's failure to provide lesson plans under the circumstances would warrant termination (no).

CONCLUSION

Despite all that occurred, the undersigned Administrative Law Judge feels considerable sympathy for the Petitioner. The Petitioner, an elementary school teacher by training and experience, was thrown into a new grade and subject area with what she perceived to be little support and a hostile work environment. Every teacher who testified at the hearing expressed discomfort with either the social studies or word generation common assessment content and frustration with how the test was rolled out. All were sympathetic to the Petitioner's plight and clearly uncomfortable testifying against her. However, all the teachers, some quite a bit more reluctantly than others, noted that the Petitioner's conduct was unacceptable and not something that they would ever do themselves or that they could ever be comfortable with another teacher undertaking. All the teachers who testified at the hearing noted that the Petitioner's test preparation methods were unsound, had little academic value, and was a commonly known unacceptable practice. Most of the teachers (reluctantly) admitted that the Petitioner's test preparation methods were unethical. Each of the teachers who testified at the hearing did so credibly and most competently.

Despite there being room for improvement at the building administration's level for supporting teachers⁶⁵, there can be no excuse for the Petitioner's conduct here. The Petitioner engaged in a sustained and continuous effort to prepare her students for common assessments by repeatedly putting the very questions and answers that they

⁶⁵ Dr. Anglin's instruction to Dr. Grant to stop supporting the Petitioner is particularly troubling. TR 86-88, 100, and 267-271.

would see in front of them and encouraging students to study those same questions and answers. She did this for one and a half school years before she was caught by students who thought that they might actually be cheating or be in trouble.

The Petitioner's conduct here is the very definition of teaching to the test. The Petitioner was not teaching students about vocabulary or the Revolutionary War or what summer soldiers and sunshine patriots were or the intricacies of language or even the complexities or absurdities of multiple choice tests. Instead, the Petitioner was begging and pleading with her students to answer A on the real test so that she could look better on her year-end evaluation. This is unacceptable behavior for a teacher and is a non-arbitrary and non-capricious reason for the Respondent to discharge the Petitioner.

ORDER

NOW THEREFORE, IT IS ORDERED that Petitioner's appeal is denied.

NOW THEREFORE, IT IS FURTHER ORDERED THAT Respondent's request to discharge Petitioner from her employment as a tenured teacher with the Respondent district is granted.

NOW THEREFORE, IT IS FURTHER ORDERED THAT the Petitioner is discharged.

EXCEPTIONS

A party may file a statement of exceptions to the decision and order or to any part of the record or proceedings including rulings on motions or objections, with the State Tenure Commission. The statement of exceptions must be accompanied by a brief in support of the exceptions and filed in accordance with the rules of the Commission. Rule 46; AC 38.176. The brief and statement of exceptions must be served upon each of the parties within the time limit stated above. A party may file a statement of cross-exceptions or a statement in support of the preliminary decision, accompanied by a brief, with the State Tenure Commission, not later than 10 days after being served with the other party's exceptions and brief. MCL 38.71 *et seq.* Rule 46(2) of the Commission's General Administrative Rules requires that arguments in exceptions/cross-exceptions briefs must correspond to the order of exceptions/cross-exceptions. The argument must be prefaced by the exception/cross-exception which it addresses. [See Rule 46(4)(d)].

The deadline for filing exceptions is 20 days after service of this preliminary decision and order: **April 8, 2019**. Exceptions must be **received** by the Commission before the close of business on the last day of this time limit. Exceptions should be sent to the

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Office of Administrative Law, 608 West Allegan Street, P.O. Box 30008, Lansing, Michigan 48909 **and** MDE-AdminLaw@michigan.gov.

A matter not included in the statement of exceptions or statement of cross-exceptions is considered waived and cannot be heard before the Commission or on appeal to the Court of Appeals.

If exceptions are not timely filed, this decision and order becomes the State Tenure Commission's final decision and order.

/S/

Michael J. St. John
Administrative Law Judge

Glossary (Acronyms Explained)

ATLAS	(Curriculum database)
CERA	Content Embedded Reading Assessment
IDP	Individual(ized) Development Plan
ILLUMINATE	(statistic database)
Kahoot	(Jeopardy-like in class computer quiz game)
MEAP	Michigan Education Assessment Program (old statewide common assessment)
M-STEP	Michigan Student Test of Educational Progress (current statewide common assessment)
SLO	Student Learning Objective
SLO1	(Social Studies Common Assessment)
SLO2	(First Amendment Essay)
SRI	Scholastic Reading Inventory
STAGES	(Computer program used for teachers' evaluations)
TCI	Teachers Curriculum Institute (social studies textbook publisher)