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THE STATE EDUCATION DEPARTMENT
THE UNIVERSITY OF THE STATE OF NEW YORK

In the Matter of
NEW YORK CITY DEPARTMENT OF EDUCATION
v.
NATALIE WILLIAMS
Section 3020-a Education Law Proceeding (File #8,253)

DATE: July 22, 2009
TIME: 11:40 a.m. to 1:20 p.m.
LOCATION: NYC Department of Education
Office of Legal Services
49-51 Chambers Street
New York, New York 10007
BEFORE: ARTHUR RIEGEL, ESQ.
Hearing Officer
One Willow Lane
Hewlett Harbor, NY 11557

1 Natalie Williams - 7-22-2009
 2 APPEARANCES:
 3 FOR THE COMPLAINANT:
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1 Natalie Williams - 7-22-2009
 2 (The hearing commenced at
 3 11:30 a.m.)
 4 THE HEARING OFFICER: Okay.
 5 It is now eleven thirty-seven A.M. on July
 6 22nd, 2009. This hearing was scheduled to
 7 begin at nine thirty A.M. this morning. Ms.
 8 Williams was about an hour and forty-five
 9 minutes late in arriving and we are prepared to
 10 proceed with closing arguments. I would note
 11 for the record that since the last hearing
 12 date, Ms. Williams has retained counsel. She
 13 is currently represented by Edward Wolf of the
 14 Law Firm of Wolf and Wolf and he will be making
 15 the closing arguments on behalf of his client.
 16 (Off the record.)
 17 THE HEARING OFFICER: Okay.
 18 Thank you. As the custom or traditional way of
 19 proceeding procedurally, the Respondent's
 20 closing argument will come first. And then the
 21 Department will follow by making its closing
 22 argument. Therefore, Mr. Wolf whenever you're
 23 ready, I'm happy to hear what you have to say.
 24 MR. WOLF: Thank you, Mr.

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 2 Riegel. First of all, so there's no
 3 misunderstanding, this record has not been
 4 closed. In the waning moments of May 8th, you
 5 directed that there be an opportunity for Ms.
 6 John-Stull to call witnesses. And if Officer
 7 Badia -- that was who the witness was -- didn't
 8 show up then we will -- future tense -- simply
 9 close the record. I would ask as is customary
 10 in A.A.A. arbitrations, Rule 33, the arbitrator
 11 shall specifically inquire about parties
 12 whether they have any further proofs to offer
 13 or witness to be heard. I'm asking that the
 14 record remain open because I have some legal
 15 arguments that might be persuasive. I'm not
 16 saying that the words that come out of my mouth
 17 are etched in stone but they're significant and
 18 since Ms. Williams has been without an attorney
 19 or without Counsel for a couple of sessions, I
 20 think it would only be fair -- and then her
 21 attorney was not a New York attorney who had
 22 done this kind of stuff. I think it would only
 23 be fair if you allow incoming attorney to make
 24 some comments before closing the record.

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 2 THE HEARING OFFICER: Well
 3 first, let me back up and respond to the
 4 initial proportion of your comments. Has the
 5 Department rested?
 6 MS. JOHN-STULL: Yes Mr.
 7 Riegel.
 8 THE HEARING OFFICER:
 9 Therefore, the police officer that you referred
 10 to is not going to be produced and therefore,
 11 the Department has rested. Getting along to
 12 the second piece of your opening statement, how
 13 is your request any different if its argument
 14 coming from you -- how is it any different if
 15 it were subsumed in your closing arguments?
 16 You're not precluded from making them.
 17 MR. WOLF: No, except that I
 18 would ask that if you are convinced by
 19 especially one argument I'm going to make
 20 today, that your rulings concerning preclusion
 21 need to change then that would allow the door
 22 to remain open to place a number of small
 23 insignificant items in terms of the time but
 24 pivotal in terms of the proof.

1 Natalie Williams - 7-22-2009
 2 MS. JOHN-STULL: Mr. Riegel,
 3 before we get to the substance of what Mr. Wolf
 4 has to say, I would just like to say the
 5 Department's position which is we would be
 6 objecting to any argument or any introduction
 7 of evidence at this time. Like Mr. Wolf
 8 correctly stated, the record was left open for
 9 Officer Badia's testimony and if there was not
 10 going to be any testimony from him then the
 11 record would be closed. That being said, there
 12 is no testimony from Officer Badia and the
 13 record should be closed and we should be moving
 14 forward with summations which is why we're here
 15 today.
 16 MR. WOLF: Well, I asked you
 17 what harm to leave it open. You have the
 18 discretion to open it later even. If it's left
 19 open, it may will be that there are things that
 20 you will conclude need changing. And I'm not
 21 going to give it away yet but I've done a lot
 22 of research and I believe that especially with
 23 your preclusion ruling --
 24 THE HEARING OFFICER:

1 Natalie Williams - 7-22-2009
 2 Preclusion of what?
 3 MR. WOLF: Of allowing
 4 documentary evidence to come in after a certain
 5 point because of Ms. Williams lateness in
 6 producing the documents.
 7 THE HEARING OFFICER: If that
 8 is the issue, I am totally comfortable with the
 9 ruling I made. There is ample evidence in the
 10 record that Ms. Williams was given more than
 11 enough time to produce the documents that she
 12 wished to put into evidence. I spent virtually
 13 a significant portion of a single session
 14 reviewing witness lists and determined that the
 15 vast majority of those witnesses would have
 16 nothing to add and I would add further that the
 17 witnesses that were approved for purposes of
 18 this hearing were not produced. And so far as
 19 the documents that Ms. Williams wanted to put
 20 into evidence, I am -- the preclusion of those
 21 documents came after a significant amount of
 22 time that elapsed and there had been no
 23 production of those documents, so I'm not
 24 exactly certain what it is that would be

1 Natalie Williams - 7-22-2009
 2 relevant.
 3 MR. WOLF: Well, the fact of
 4 the matter is that I'm new counsel. I've read
 5 the record twice. I see where with a slight --
 6 a very small change would make a big
 7 difference. The record is not actually close
 8 until you close it and since you're an
 9 attorney, if this is not a jury, you are a
 10 trained, both as an attorney and arbitrator to
 11 sift through the relevant and irrelevant. I'm
 12 saying that, and you don't know what's coming
 13 in terms of this research. I'm saying that if
 14 there is anything in there that persuades you
 15 that there are reasons why the record -- why
 16 she shouldn't have been precluded, rather than
 17 put her to the burden of a trial that we could
 18 roll up our sleeves now and deal with it. And
 19 I'm saying is all I'm asking from you is to
 20 keep an open mind as I know you do. You're a
 21 neutral and that's your job is to keep an open
 22 mind and these arguments you haven't heard and
 23 I didn't -- wasn't even aware of the law on the
 24 situation until I started doing research. I

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1 Natalie Williams - 7-22-2009
 2 surprised myself there. You're going to be
 3 surprise at what you hear.
 4 THE HEARING OFFICER: Except
 5 that the defense had essentially rested.
 6 You're asking for re-opening of -- we started
 7 this conversation by referring to the record
 8 remaining open for Officer Badia to testify.
 9 He would have testified as a rebuttal witness.
 10 That is --.
 11 MR. WOLF: I understand what
 12 you're saying and I know where you're going
 13 with it.
 14 THE HEARING OFFICER: And it
 15 is presumed that the defense was -- had been
 16 put in.
 17 MR. WOLF: You know, the --
 18 what's missing with that picture is that it's
 19 traditional trial law. You and I know it. Ms.
 20 John-Stull knows it. But there is now rules in
 21 effect for this forum that make it necessary
 22 that we follow that ceremony in that order if
 23 unusual circumstances arise. I'm not asking --
 24 all I'm asking you is to not bring the curtain

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1 Natalie Williams - 7-22-2009
 2 not -- well, what I am concerned about is that
 3 if I grant your application then,
 4 presumptively, if there -- if you were
 5 persuading me that those documents might be
 6 admissible then I'm required to make a ruling
 7 saying the hearing is not over. Bring in
 8 further witnesses. I'm not prepared to do
 9 that.
 10 MS. JOHN-STULL: Mr. Riegel,
 11 may I be heard. With all due respect to
 12 counsel, I -- I mean, I'm fully aware that --.
 13 MR. WOLF: You don't need to
 14 start your statements to counsel. I know you.
 15 MS. JOHN-STULL: Listen. You
 16 know, you came on board when the trial
 17 completed. But that has been about two months
 18 ago. And I think is nowadays that you want to
 19 make arguments and have the record remain open
 20 you were fully aware at that time that this
 21 case was set for summation. This is an issue,
 22 whatever it is that's on your mind that should
 23 have been raised before we got here today so
 24 we're not coming here thinking we're going to

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1 Natalie Williams - 7-22-2009
 2 down for another twenty minutes and at the end
 3 of that time -- bring the curtain down if you
 4 feel I haven't said anything that's persuasive
 5 as to these issues. Especially as a courtesy
 6 to new counsel.
 7 THE HEARING OFFICER: Let me
 8 ask you --.
 9 MR. WOLF: Coming in at the
 10 end.
 11 THE HEARING OFFICER: I'm
 12 not -- well I'm not prepared to do is to reopen
 13 this for litigation. I'm not prepared to do
 14 that. We have been by my account, involved in
 15 this proceeding since March 11th.
 16 MR. WOLF: Actually, February
 17 25th.
 18 THE HEARING OFFICER: What we
 19 do is -- I'm not talking about pre-hearing
 20 conference. I'm talking about in terms of
 21 taking testimony and evidence, I have a rather
 22 significant as you know, significant back-up of
 23 cases. I am not prepared to open this for
 24 further testimony, for further -- and will

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1 Natalie Williams - 7-22-2009
 2 be doing summation when we're going to be
 3 opening up the record. And not only that, the
 4 Department, with all fairness is going to be --
 5 is going to have to be afforded the opportunity
 6 to respond and then we're just going to be
 7 continuing litigating and litigating and
 8 trying and trying but never coming to a close
 9 in this matter. And it's interesting because
 10 one of the things that your client said
 11 repeatedly when she testified on direct, is
 12 that she played with the technicality and I
 13 think that we need to put an end to playing
 14 with the technicalities. Officer Badia is not
 15 testifying, the record is closed. We're here
 16 to sum up on this case. If that was not your
 17 understanding then you should have communicated
 18 that to us before.
 19 MR. WOLF: Well, that may
 20 well be. But I have gone over the -- I think I
 21 started in 1997, what you said you did at '98?
 22 I was here. I've been here that long. I've
 23 had hearings go eighteen months. This one
 24 right now that I walked off of has gone two

4 (Pages 1537 to 1540)

1 Natalie Williams - 7-22-2009
 2 years in front of James Cashen.
 3 THE HEARING OFFICER: So have
 4 I and I think that it is inconsistent with the
 5 statute. The purpose of this is -- the purpose
 6 of the statute was to expedite the process, not
 7 lengthen the process. The process is not
 8 sufficiently expedited by a tenure to begin
 9 with but to lengthen it -- and you know that I
 10 have a great respect for you both personally
 11 and professionally. But there comes a point
 12 where the opportunities for defense and the
 13 opportunities for the -- for the putting in of
 14 the case in chief on the part of the charging
 15 party comes to an end.
 16 MR. WOLF: Okay.
 17 THE HEARING OFFICER: We have
 18 closing arguments.
 19 MR. WOLF: Okay.
 20 THE HEARING OFFICER: I'm
 21 just saying to you that regardless of the
 22 arguments that you want to make, I'm not
 23 prepared to reopen this for further testimony.
 24 MR. WOLF: All right. Let's

1 Natalie Williams - 7-22-2009
 2 do this. Let me place an objection on the
 3 record.
 4 THE HEARING OFFICER: Go
 5 ahead.
 6 MR. WOLF: And then commence
 7 my argument and at the end, I'm going to renew
 8 my request. In that way we won't have all this
 9 colloquy.
 10 THE HEARING OFFICER: Good
 11 point.
 12 CLOSING ARGUMENT
 13 MR. WOLF: Okay. Preclusion
 14 is a drastic remedy. And preclusion has a
 15 history in New York State in the law which
 16 requires that it only be exercised in the most
 17 drastic of circumstances. The cases of which
 18 abound, I gave you Pepsico v. Wintherthur --
 19 W-I-N-T-H-E-R-T-H-U-R indicate that there must
 20 be a willful, deliberate or contumacious
 21 failure on the part of party whose obliged to
 22 bring to discovery. On the record, Ms.
 23 Williams indicated a couple of things. One,
 24 that she had trouble with Staples then went to

1 Closing - Wolf
 2 FedEx and they didn't complete it on time. She
 3 also and I'm not sure how much but there is
 4 some claim that some electronic data was
 5 transferred. This is not a willful, deliberate
 6 or contumacious issue. She's not willful.
 7 She's not -- what's the other word?
 8 THE HEARING OFFICER:
 9 Contumacious.
 10 MR. WOLF: (Cont'g.) Nice
 11 word. And it wasn't deliberate. It wasn't
 12 deliberate. Now, on top of -- that tip of New
 13 York State Law argument, there is a more
 14 complicated argument which goes to your
 15 essential power, not just you, any arbitrator,
 16 the central power in these proceedings to
 17 actually make a ruling to preclude. Now, if
 18 this were an arbitration under the A.A.A.
 19 rules, -- Rule 32. It's called the "Interim
 20 Measures" -- are you familiar with it? At the
 21 request of any party, the arbitrator may grant
 22 any remedy or relief that would have been
 23 available to the party had the matter been
 24 heard in court. We don't have that rule here.

1 Closing - Wolf
 2 Not here. And there is a -- an approach
 3 mandated -- mandated by law under McKinney's
 4 statutes. McKinney's statutes is a volume that
 5 I may have looked at twice or three times in
 6 almost fifty years I've been in the law. But
 7 we have to look at the nature of the 3020-a
 8 statute and to see whether or not you can find
 9 language in there that gives you those powers.
 10 And then beyond that we have to look at the
 11 language in the U.F.T. contract because we're
 12 dealing with some changes from 3020-a that were
 13 authorized when Mayor Bloomberg became mayor
 14 and he got the union to agree to certain
 15 procedures that are slightly different than the
 16 procedures set forth in the statute. And apart
 17 from that, and I have never really noticed that
 18 but that in the 3020-a statute, it incorporates
 19 by reference whatever rules the commissioner
 20 might mandate for the 3020-a so that's the
 21 framework that we need to examine. Now, oh and
 22 by the way, those rules -- we're talking about
 23 Article 21-G-8 for the collective bargaining,
 24 that's the language there and we're talking

1 Closing - Wolf
 2 about the regulations of the Chancellor of the
 3 Board of Regents 82-1.10 conduct of hearings.
 4 In 3020-a, we have a statute that is very chary
 5 about the powers given to an arbitrator. An
 6 arbitrator does not have the power to reverse
 7 the orating, for instance. An arbitrator has
 8 certain penalties that the arbitrator can
 9 oppose. We all know them. When you look at
 10 the procedure, you do see that there is a
 11 pre-hearing conference that which time motion
 12 shall be made and you can rule on those
 13 motions. And then, in that statute it says
 14 that the Respondent employee will have a full
 15 and fair opportunity to be represented by
 16 counsel, interview witnesses, et cetera, bring
 17 in documents, et cetera, et cetera. In
 18 addition, to which, C.P.L.R.. 7506 says that at
 19 any stage of the hearing a respondent may ask
 20 for an attorney, and that, I'm not sure exactly
 21 the way its language is written makes it pretty
 22 clear that, you know, this is a definite right
 23 that can't be waived at any stage. In the
 24 interpretation of this kind of a statute, we

1 Closing - Wolf
 2 have to look at what I said, that McKinney's
 3 statute, that little volume that tells you how
 4 to read statutes and there are two sections
 5 that bear on this. The first section is, well
 6 actually, I'm going to start with the last.
 7 Section two forty. "Expression of one thing as
 8 excluding others." And that's the only time
 9 I've ever seen Latin quoted in a statute. It
 10 says the maxim expression -- expression unius
 11 est exclusio alterius is applied in
 12 construction of the statutes. So that where a
 13 law expressly describes a particular act,
 14 thing, or person to which it shall apply, an
 15 irrefutable inference must be drawn that was
 16 submitted or not -- included -- was intended to
 17 be omitted or not included. And I have copies
 18 of -- well, I did have copies of the statutes
 19 and I'll provide them for you but I have a
 20 pamphlet of stuff to give you some of which is
 21 included here. The rest didn't get loaded into
 22 my briefcase last night. Section seventy-four
 23 of that same statute says "Implications from
 24 Legislative Silence." A court cannot by

1 Closing - Wolf
 2 implication supply in a statute a provision
 3 which it is reasonable to suppose the
 4 legislature intended intentionally to omit and
 5 the failure of the legislature to include a
 6 matter within a scope of an act may be
 7 construed as an indication that its exclusion
 8 was intended. In other words, there are no
 9 inferred powers. A review of the 3020-a
 10 statute includes discovery provisions but is
 11 silent about what should be done if discovery
 12 is not provided. Leaving 3020-a for a minute,
 13 and going to the language in Article 21-G-8 of
 14 the collective bargaining agreement, it says
 15 that reciprocal discovery shall be provided,
 16 you know, I'm not going to quote the whole
 17 thing -- to effectuate the purpose of the
 18 statute, the parties agree that both sides will
 19 exchange stuff. Now, in reading the section
 20 that pertains to that, you ask yourself, well
 21 what happens if that is not met? The contract
 22 is silent on that issue. So, being lawyers,
 23 the next thing we ask, is well, the statute
 24 must govern. But the statute is also silent on

1 Closing - Wolf
 2 the issue. Then that puts us back on the part
 3 of 3020-a in which the Regulations for the
 4 Chancellor for hearings are incorporated by
 5 reference it says a 3020-a three states;
 6 hearing procedures, "The commissioner of
 7 education will have the power to establish
 8 necessary rules and procedures for the conduct
 9 of hearings under this section. These
 10 procedures are found in the Commissioner's
 11 Regulations at 82-1.10 conduct of hearings and
 12 of the six provisions, only one comes close."
 13 E, "Members of the hearing panel may question
 14 witnesses and parties subject to the right of
 15 the hearing officer to disallow such questions
 16 if he or she deems them improper.
 17 Notwithstanding the foregoing, no questions may
 18 be addressed to the employee unless he or she
 19 has been sworn as a witness with his or her own
 20 consent." That's the only provision that the
 21 rest talks about if you're going to use the
 22 three panel, if you're going to use those
 23 things. It is also silent on this issue. So,
 24 there's absolutely nothing that indicates that

1 Closing - Wolf
 2 under any set of rules, statutory or
 3 contractual that the arbitrator has the right
 4 to absolutely preclude a witness from
 5 introducing evidence whether documentary or
 6 testimonial. Even if you had the power to
 7 preclude absolutely whereas here, it strips an
 8 individual of the ability to absolutely prove
 9 her case and also alters the course of the case
 10 to a foregone conclusion. Even if you had the
 11 power, as I said before, it ought not to be
 12 invoked because this was not willful, not
 13 deliberate, not contentious.
 14 Now, I'm not going to put too
 15 much -- too many calories into this paper
 16 versus electronic but this law and some
 17 statutes -- Uniform Rules 10013, and case law
 18 that heads towards the -- if not absolutely
 19 says, that any documents maintained in paper
 20 form can be shipped -- oh, wait minute, that's
 21 quoting from the wrong place. But that the --
 22 it's not the medium -- paper, electronic. It's
 23 the message. And therefore, whether there's --
 24 it raises the same issue as to whether or not

1 Closing - Wolf
 2 you absolutely have the power to insist that
 3 everything be done on paper. It's the fact
 4 that my client was without counsel. That one
 5 had made her think that there were a lot of
 6 things that should come in when actually only
 7 maybe three four at the most, I would say
 8 documents are the fulcrum or critical to the
 9 case. Now, finally, before I get into the
 10 arguments on the specification themselves. At
 11 no time was Natalie Williams ever anything
 12 other than a pro se litigate. As we all now,
 13 on April 29th, 2009, when Ms. Walls called in
 14 sick, Ms. Williams requested that you proceed
 15 anyway. You did. However, at that time, you
 16 revoked Ms. Walls' right to question and cross
 17 examine the witnesses. However, she was never
 18 anything more than an advisor. And so I think
 19 page twelve ten, you said on the issue of who
 20 the transcript should go to at twelve ten,
 21 you're talking to the stenographer. For the
 22 record, Ms. Williams has insisted in our most
 23 recent e-mail that she is appearing pro se --
 24 oh, wait a minute, no -- that's -- March 25th

1 Closing - Wolf
 2 page four sixty-eight. "I would like to put on
 3 the record that I would like the transcripts in
 4 this matter to be expedited. But it's a kind
 5 of unusual circumstance because Ms. Williams is
 6 appearing pro se that the transcripts need to
 7 be sent to Ms. Williams and she will then
 8 provide copies to Ms. Walls. You have an
 9 address for Ms. Williams." Notices were not
 10 sent between the hearing officer and Ms. Walls
 11 but were back and forth to Ms. Williams. Had
 12 Ms. Walls been in the loop with respect to the
 13 time and place of the meeting some of us
 14 should've ran over the changes, a hearing on
 15 both sides might have been avoided. I recall,
 16 Ms. Williams said she was on holiday and wasn't
 17 reading her e-mail but if Ms. Walls have been
 18 alert and it should have been caught. The
 19 February 25th, March 4th, March 11th, March
 20 18th, March 25th, April 6th and 26th in the
 21 front page all marked Ms. Williams' as pro se.
 22 In the -- prior I think to the 26th, she again
 23 asked for counsel. She indicated Ms. Walls and
 24 in the record that there you have refused. Ms.

1 Closing - Wolf
 2 Williams was never listed as being represented
 3 by counsel, in addition to which Ms. Walls was
 4 not licensed in the state, had not practiced
 5 law in a long time, had never done a 3020-a and
 6 wasn't familiar with all of our document
 7 customs. How could she be in the -- she was a
 8 novice to this just as much as any Respondent
 9 coming to this table for the first time. Let
 10 me just indicate that with -- 7506-D states: A
 11 Representation by Attorney, "a party has the
 12 right to be represented" -- that's the
 13 C.P.L.R. -- "by an attorney and may claim such
 14 right at any time as to any part of the
 15 arbitration or hearings which should not taken
 16 place." This right may not be waived" and I
 17 know the case of Huda Chawky (phonetic
 18 spelling) that was your case, I believe, Mr.
 19 Riegel. Ms. Chawky did you have Ms. Chawky on
 20 that case? Or you -- she went -- oh, okay.
 21 And so the lady went to get an attorney and she
 22 took five months to get an attorney, and after
 23 a while, the arbitrator rightly so said,
 24 "Listen you can't do this. You're playing

1 Closing - Wolf
 2 games with me."
 3 So, now, Ms. Williams has a
 4 complete defense to the first specification.
 5 And in doing -- and in raising this, I'm going
 6 to ask you to take judicial notice and I have a
 7 copy for you of the Chancellor's Regulations
 8 80.1 -- 80-1.5, excuse me. I'm going to follow
 9 your train of thought.
 10 THE HEARING OFFICER: Because
 11 I'm fine. I'm just looking for the charges
 12 actually while doing that. While I'm
 13 scanning --.
 14 MR. WOLF: Sure, you're as
 15 bad as I am.
 16 THE HEARING OFFICER: No, I
 17 had it here. I just -- I had notes written on
 18 it. I am -- go ahead. You can continue.
 19 MR. WOLF: (Cont'g.) Okay.
 20 The language basically is that the
 21 Commissioner's rules trumps City's rules. And
 22 the Commissioner of education said a school --
 23 in part B of 80-1.5 of which I'm asking you to
 24 take judicial notice -- a school or school

1 Closing - Wolf
 2 system shall not prohibit an employee who is a
 3 current or prospective applicant for permanent
 4 certification from videotaping a classroom
 5 presentation for the purpose of meeting the
 6 performance assessment of teaching skills
 7 requirement for permanent certification. I
 8 said permanent twice. Such videotape to the
 9 Department or otherwise fulfilling this
 10 classroom presentation is a requirement. A
 11 videotape -- and with respect to the student
 12 aspect of it, they say in the next half of that
 13 part, a videotape made for this purpose shall
 14 be a confidential record of the Department.
 15 And is such is not subject to viewing or
 16 disclosure to any individual or entity other
 17 than the applicant for certification. So the
 18 question is whether -- I would take this up,
 19 the question is this provision trumps A-640
 20 which is the Chancellor's Regulation. But you
 21 haven't learned and is that -- as a result of
 22 that video, also all of the other red tape you
 23 have to do to get certification. Ms. Williams
 24 actually obtained her certification in

1 Closing - Wolf
 2 chemistry from that video and we have the
 3 certification. So they jumped the gun, and
 4 I'll tell you where this thing went south.
 5 Anyone who has been a principal for a long time
 6 and anyone who knows people who have been
 7 principals for a long time or have been married
 8 to people who have been assistant principal
 9 knows that there's a ritual that goes on when
 10 you want to get someone out of these schools.
 11 Except for the case of a severe corporal
 12 punishment where it's a safety issue, you got
 13 to get them out right away. What's that
 14 ritual? That a letter has to be sent on
 15 forty-eight hours notice, it's Article 21, the
 16 first couple parts of that contract. A letter
 17 has to be sent on forty-eight hours notice
 18 summoning the employee to the principal's
 19 office, it could be a superintendent's office,
 20 informing them that they shall appear and they
 21 may bring a union rep. because the matter may
 22 lead to discipline. It didn't happen here.
 23 Ms. Williams was in the horizon trailers
 24 walking a young lady to the office. I think

1 Closing - Wolf
 2 she had been summoned to the office. That
 3 alerted -- and on the same day she was
 4 summoned, not giving her the forty-eight hour
 5 cooling off period. She was handed a letter to
 6 leave the building. And this incident the
 7 praetor of the right to sit down with Mr.
 8 Rotunno and say, "Mr. Rotunno, I know you don't
 9 want me videotaping people in the school
 10 without permission." And by the way, I know
 11 there's -- there's a dialogue about whether or
 12 not she was videotaping Ft. after that first
 13 class and she claims she was looking in the eye
 14 piece to see whether or not Mr. -- in the eye
 15 piece to see whether or not she could catch Mr.
 16 Kent's feelings from the documents. Up until
 17 that moment, she called in -- was called in to
 18 Rotunno's office, the only thing that she had
 19 done was on October 6th, she was accused of
 20 videotaping without parental consent. And up
 21 until that time the only other thing that she
 22 had done -- and we haven't reached any trespass
 23 issues -- is that she encouraged students to
 24 cut classes when she videotaped students --

1 Closing - Wolf
 2 plural -- during class time despite prior
 3 warnings from Principal Anthony Rotunno not to
 4 videotape students. The only issue on the
 5 table at that moment, if she had had that
 6 forty-eight hour cooling off period and she had
 7 gone in with the union representative and she
 8 had the opportunity and say, "Mr. Rotunno, are
 9 you aware that the Chancellors -- the
 10 Commissioner's Regulation absolutely allows me
 11 to do what I'm doing?" And at least get these
 12 into his ears the other argument so that he
 13 could then mull it over and come to a
 14 conclusion, but there was no such dialogue.
 15 She had no such opportunity. She was deprived
 16 of that due process no matter what that due
 17 process was, how little or how slight. And I
 18 can't believe that Mr. Rotunno didn't know
 19 that. His silence on the record -- it's there
 20 and that's the only conclusion you can draw.
 21 So we wouldn't be here maybe if that hadn't
 22 happened. And then, he didn't say to her at
 23 that -- he just handed her a letter. She left
 24 not knowing why she was supposed to leave.

1 Closing - Wolf
 2 Now, that means she can't come back. Can you
 3 imply that just because it says go to 1 Fordham
 4 Plaza that she can't come back and vote the
 5 next day for the U.F.T. person which is an
 6 absolute right guaranteed not only by the union
 7 contract but it's also guaranteed by the
 8 Constitution of the -- Amendment to the
 9 Constitution of the United States and the State
 10 Constitution. Absolute right. And you hear
 11 all these testimony about how she was chased in
 12 the school at that time and that was the
 13 specific period of time that she was voting.
 14 The actual arrest came later in the early
 15 evening session and it came a block away. She
 16 hadn't put her foot on school property at that
 17 time. Now, she had gotten a pink slip from
 18 Officer Giglavitch -- Sergeant Giglavitch who
 19 hasn't -- had no authority, had no frame work,
 20 had nothing to say that this woman who's
 21 paycheck was emanated from the Board of
 22 Education who had a pass that allowed her to go
 23 into school and come to Chamber Street and do
 24 all the things that teachers are allowed to do

1 Closing - Wolf
 2 when they have that photographic
 3 identification. He had no inkling that -- and
 4 he had no authority and he had no idea of the
 5 complexity of that pink slip. Is that notice?
 6 He was in a position -- and this is very clear
 7 on the record. "You have any control?" you
 8 asked of Mr. Rotunno over Mr. -- at the Officer
 9 Giglavitch. And he said no. So, a first
 10 arrest. The next day, -- and you can't say
 11 that Ms. Pollina got to -- Pollina's letter
 12 that's written on the 27th got to her because
 13 she was arrested on the 27th. You know, maybe
 14 it had been the day before and it had been hand
 15 delivered or over-nighted then you can say,
 16 well, she had notice. And by the way, where
 17 the -- you asked Mr. Rotunno about his --
 18 Giglavitch's -- Rotunno's authority over
 19 Giglavitch, he denies it at the transcript at
 20 page fifteen o three. Giglavitch was in no
 21 position to make that declaration not to return
 22 to the school, nor is he a lawyer capable
 23 determining that an employee of the D.O.E.
 24 could be guilty of trespass. A letter of

1 Closing - Wolf
 2 October 26th, 2005, merely as a directive
 3 merely to go to 1 Fordham Plaza in addition to
 4 which a pink ticket was thrown out is not
 5 reflected in these charges. All of the
 6 trespasses never came to fruition. And the
 7 next thing we have in terms of a trespass issue
 8 is that she had attempted to return to school
 9 to pick up her belongings on December 8th.
 10 She's not accused of trespassing in
 11 Specification Five. There's no language saying
 12 that she unlawfully went into the premises and
 13 did anything wrong. She had a conversation, a
 14 fairly civilized conversation with assistant
 15 principal. And she accepted that she had to
 16 come back with some kind of written
 17 authorization. On thirteenth, she was arrested
 18 and charged with two counts of criminal
 19 trespass and she claims that she after many,
 20 many, many, many times finally got permission
 21 in an e-mail to go get her stuff. And when she
 22 got there, it was all gone. Valuable stuff was
 23 gone, vandalized, missing. Okay. Now, there
 24 are three and six -- specification three and

1 Closing - Wolf
 2 six are actually the defected. And you have to
 3 parse it. And apologies to you, Minerva, if
 4 you wrote these charges. Nevertheless, I'm
 5 obligated to go through this exercise. The
 6 charge is on or about October 28th 2005,
 7 respondent was arrested and charged with two
 8 counts of criminal trespass. Okay. This is
 9 where we go off. After failing to comply with
 10 the directives from Principal Anthony Rotunno,
 11 which informed respondent that under no
 12 circumstances is respondent to return to John
 13 F. Kennedy High school without prior
 14 authorization. There is no proof in this
 15 record that on October 28th, that Anthony
 16 Rotunno from the twenty-sixth to the
 17 twenty-seventh to the twenty-eighth issued a
 18 directive other than to go to one F
 19 ordham Plaza. In the last sentence, it's kind
 20 of -- last part of that is stringed out there
 21 that she failed to report the arrest and I
 22 don't know. I heard the testimony of the lady
 23 from O.P.I. She testified that a true. Now,
 24 because of the way that's framed, she hasn't

1 Closing - Wolf
 2 made out a charge. First of all, you can't be,
 3 and I know that it's part of the notion to
 4 dismiss, you can't be accused of being arrested
 5 and charged. Where is the conviction? And you
 6 can't address administrative right to a go over
 7 the same conduct because the gravamen of this
 8 is that she was arrested and charged. It
 9 should have said that because she trespassed,
 10 she was arrested and charged. This sentence is
 11 entirely different. Okay. That brings us to a
 12 key case. I don't know if you've come across it
 13 before. Oranski versus Board of Education.
 14 Oranski says, if you're going to charge
 15 somebody at one of these things, a 3020-a, you
 16 better choose the right word because the court
 17 of appeals sent Mr. Oranski back to work
 18 because they accused him of the wrong crime.
 19 And it's a court of appeals case. Nobody says
 20 it's bad law. And all we have here is from a
 21 grammatical point of view is arrested and
 22 charged after directives from Rotunno which is
 23 nothing in the record that he made up to that
 24 point and she failed to notify the Department

1 Closing - Wolf
 2 of the arrest which she did. So even if we
 3 never go to her issue of whether she believed
 4 that she had the right to go back, that she was
 5 wrong because and you could argue that anyone
 6 who works for the Board of Education gets a
 7 letter from -- to go to 1 Fordham Plaza they
 8 got to know, they can't come back. I don't buy
 9 that argument, especially on that union vote.
 10 She had the right back on the premises. And
 11 she wasn't arrested on the premises when she
 12 got back. She was arrested off premises. So,
 13 that also holds true for specification six that
 14 all she was -- all that happened here, she was
 15 arrested and charged. At that time, she
 16 believes that she had the right to go back to
 17 get her belongings and you know what, some
 18 criminal court judge was I like to use the word
 19 shock. Some criminal court judge was concerned
 20 enough to make it an order that allowed this
 21 woman to go back to get her belongings. You
 22 don't have much left. On about October 6th,
 23 2005, Respondent encouraged students, plural,
 24 to cut classes when she videotaped students,

1 Closing - Wolf
 2 plural, during class time despite prior warning
 3 from Anthony Rotunno not to videotaped students
 4 and staff. This is also a hodgepodge of things
 5 that are just aren't in the record. She'd have
 6 to have -- she'd have to have stood up during
 7 class -- during the time she videotaped -- it
 8 said when she videotaped students during class
 9 time, at that time and place at that moment she
 10 encouraged students to cut classes. In the
 11 classroom while class is going on despite prior
 12 warning from Principal Anthony Rotunno not to
 13 videotape students. What does that have to do
 14 with this charge? This is not a videotape
 15 issue. It's cut classes. There's no evidence
 16 on the record that she got up in that class and
 17 said, "I don't want you to attend the class --
 18 your next class. You can not attend your
 19 class, you next class. I'm giving you
 20 permission to not attend your next class and
 21 what we'll do and I'd like to do with the time
 22 is to videotape." Well, we didn't get to the
 23 videotaping because the condition precedent is
 24 that in the class she shouldn't have gotten up

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1 Closing - Wolf
 2 and encouraged students to cut classes. It
 3 didn't happen. It's not on the record. So, we
 4 get to the incident of this of the young woman,
 5 Fatima. And Fatima says that she wants to
 6 speak to Ms. Williams and goes out into some
 7 area outside the classroom where she complains
 8 allegedly about Mr. Kent. People say she's
 9 videotaping the child. She says that she
 10 didn't have her hand on a button. She was doing
 11 a rewind to look at the tape while she was
 12 listening to the child, she wanted to verify
 13 that -- and she indicated that he had taken
 14 some doctoring. Well, Mr. Colon comes along
 15 and he testifies that Fatima came to Mr. Colon
 16 and said, "I was very uncomfortable about being
 17 videotaped by Ms. Williams." So you can't use
 18 the inconsistent statements of Fatima to
 19 corroborate that incident because you've
 20 indicated the testimony, well, maybe we've got
 21 some corroboration here for this. Fatima seems
 22 to blow whichever way the wind went because why
 23 didn't she complain about Mr. Kent to Mr.
 24 Colon? Why was she complaining about Mr.

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1 Closing - Wolf
 2 your proceeding on this conduct under
 3 administrative guidelines. On April 29th --
 4 first of all, that ignores the whole thrust of
 5 specification three, five and six, especially
 6 three and six. But on April 29th, and you said
 7 let's go backwards because it was Ms. Williams'
 8 speaking, it was Judge Viligas who was first
 9 confronted with in Bronx Criminal Court and you
 10 said these are criminal proceedings. They have
 11 nothing to do, and you were interrupted, you
 12 had nothing to do with this. Well, if they
 13 have been drafted differently, I would agree
 14 with you. But the whole gravamen of three and
 15 six is she was arrested and charged. And I
 16 would urge you to reconsider if you think that
 17 this is administrative only and that the
 18 criminal has nothing -- has no bearing. I
 19 think the criminal has bearing. Certainly, you
 20 didn't shut the door in the case of Ann Tierny
 21 where, and I'm not -- where she allocuted to
 22 the claim of disturbing the peace and Minerva
 23 was urging that underlying that allocution was
 24 admission that she stole the hundred and

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1 Closing - Wolf
 2 Kent -- you got my point. Look at page sixty
 3 and sixty-one or Mr. Colon's testimony.
 4 Specification Four, urged students not to
 5 attend Apple Soho School Night. Well, at the
 6 time she urged them to attend Apple School
 7 Night, she was planning a perfectly legitimate
 8 educational experience. This part A is
 9 Specification Four. This defective simply said
 10 because this doesn't say when she urged them
 11 before is that wrong? To set up this school --
 12 this visit to Apple? And she then testifies
 13 that she made clear that this had been
 14 canceled. That the meeting had been canceled.
 15 So the only thing that we have here that seems
 16 to be left standing with the exception of a
 17 very important reason to open the record to
 18 allow her to show the certification chemistry.
 19 The only thing that seems to be left standing
 20 is that she asked some kids to deliver stuff.
 21 Now, that's not enough to terminate somebody.
 22 You indicated, by the way and I want to go back
 23 briefly that you indicated that what happened
 24 with the criminal case is not relevant because

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1 Closing - Wolf
 2 whatever money from that purse. And so at that
 3 time, you seem to believe that the criminal
 4 proceeding did have some bearing. Okay. When
 5 you drain the sting out of videotaping that was
 6 permissible -- permissible videotaping, for
 7 which she was ousted out of school and drain
 8 the sting out of her arrest the next day when
 9 she misunderstood the total nature of her band,
 10 all you have left is a three minute discussion
 11 with a student after class and by the way, the
 12 child only missed, I don't think she missed any
 13 time but she didn't miss her next class. And
 14 two, a canceled Apple Soho Night and three,
 15 t-shirt delivery. That's all you got left.
 16 The fact that's never been mentioned is that
 17 not only had -- Ms. Williams not only had and
 18 eleven year history of working five principals,
 19 without incident --. Can I have that -- that
 20 plaque -- she was also given a reward from
 21 Who's Who of American Teachers which is based
 22 on children stating that must change their
 23 lives. I don't think she's a member of Who's
 24 Who. I don't think she's in the publication

11 (Pages 1565 to 1568)

1 Closing - Wolf
 2 but this award -- you are? Sorry. Sorry.
 3 We're going to throw away another teacher?
 4 Throw a good one away? The point is I had all
 5 this relevant documentation come in had I been
 6 her attorney from the beginning, you know, that
 7 we would have shown you that she had received
 8 her certification in Chemistry and that she was
 9 permitted to videotape and the Department was
 10 not permitted to refuse. And that without a
 11 disciplinary conference of being told what she
 12 had done wrong, she was unaware at least on the
 13 27th and 28th that she was not allowed to
 14 return at the school. And I said it about
 15 three times. She was ultimately arrested off
 16 school grounds. When she was on the school
 17 grounds to vote, she had an absolute first
 18 amendment right to be there also guaranteed in
 19 the contract. The point is that it took an
 20 order from a judge, and I see this as a
 21 torment, that there is certain amount of
 22 torment and dehumanization that's gone on.
 23 We're not looking at the
 24 Who's Who recipient. We're looking at somebody

1 Closing - Wolf
 2 who lost -- who had spent a great deal of money
 3 to bring equipment into the school and it took
 4 a court order from a judge because they, the
 5 Board of Education didn't have collective
 6 rachamin -- is that a legal term? -- for --
 7 rachamin means milk of compassion, milk of
 8 human kindness.
 9 When and all of the stuff was
 10 trashed and missing. In a Harris versus
 11 Mechanicsville, 45 New York 2d 279-380 it says
 12 that not all forms of insubordination are the
 13 same. In that case a teacher wanted to teach
 14 "Catcher in the Rye" and I guess up there in
 15 Mechanicsville, it was considered a kind of
 16 risque story, and they came down on him and
 17 they got him to sign a statement that he
 18 wouldn't teach it -- written statement --
 19 stipulation. Wouldn't teach it. And he broke
 20 it. And they brought him up on
 21 insubordination. He was terminated. And the
 22 Court of Appeals addresses this issue of
 23 insubordination and says because the
 24 insubordination did not involve cardinal, moral

1 Closing - Wolf
 2 delinquency or predatory motive, and the
 3 charges did not indicate a lack of capacity as
 4 a teacher or a grave injury to a school
 5 district, dismissal of the teacher was so
 6 disproportionate to the offense as to shock the
 7 court's sense of fairness. And at most,
 8 appropriate sanction was suspension. I told
 9 you that when you got to this point, I'm going
 10 to urge you to re-open the record. I think
 11 that things happen during this course of the
 12 hearing but got it a little veered off and that
 13 there was inadequate understanding of
 14 documents. I could have tried this case with
 15 maybe ten documents, probably a lot less. But
 16 she wanted to bring in fourteen hundred
 17 documents and that's not something to fault her
 18 for. She's is not an attorney. She's not an
 19 attorney. So, I'm asking that you re-open this
 20 record. That you allow us to tell us
 21 formally -- tell you formally just what she is
 22 about, a prize winning teacher from the very
 23 highest organization in the United States.
 24 That she has every reason to be proud of

1 Closing - Wolf
 2 herself and that she has a long career ahead of
 3 her in which she can change the lives of these
 4 children.
 5 THE HEARING OFFICER: I will
 6 not comment on the arguments made relative to
 7 the charges. I will respond to the application
 8 that you made that I re-open the record. I
 9 decline to do so. My reasons are clearly
 10 stated in the record. I also must indicate
 11 that the argument about the availability of
 12 counsel to Ms. Williams is without merit. Ms.
 13 Williams was represented by a very competent
 14 attorney whom she dismissed. She made the
 15 active choice to appear pro se. When Ms. Walls
 16 appeared, I afforded her every respect that I
 17 would afford to an attorney of record.
 18 MR. WOLF: Yes you did.
 19 There is no dispute about that.
 20 THE HEARING OFFICER: And it
 21 was not until Ms. Williams indicated to me that
 22 Ms. Walls does not speak for her.
 23 MR. WOLF: She never spoke
 24 for her. She was pro se.

1 Closing - Wolf
 2 THE HEARING OFFICER: And she
 3 insisted being upon pro se that I took her at
 4 her whole word and then said that while Ms.
 5 Walls is perfectly free to attend these
 6 hearings because it was an open public hearing,
 7 she would no longer act as her counsel by
 8 examining witnesses. And as further evidence of
 9 the fact that Ms. Williams always had the right
 10 to counsel is that she did not need my approval
 11 to retain you. She had the right to counsel,
 12 she knew it all along, she chose to appear pro
 13 se and that was her choice. As to the issue of
 14 the documents I make no further comment except
 15 that with respect I will not re-open the record
 16 and will now move on to the Department's
 17 closing arguments.
 18 MR. WOLF: She wants to speak
 19 to me for a second before is that right, I know
 20 you have a two o'clock.
 21 THE HEARING OFFICER: Well,
 22 we're off the record.
 23 (Off the record.)
 24 THE HEARING OFFICER: Okay.

1 Closing - John-Stull
 2 The Department's closing argument please.
 3 CLOSING ARGUMENT.
 4 MS. JOHN-STULL: Thank you.
 5 Good afternoon everyone. Mr. Riegel, I would
 6 like the opportunity to briefly respond to some
 7 of the comments that were made by Respondent's
 8 attorney prior to closing statement. With
 9 respect to the exclusion of the document like
 10 Mr. Wolf had stated, there were over fourteen
 11 hundred pages of documents that this Respondent
 12 sought to introduce and the -- it is the
 13 Department's position that even if those
 14 documents were put in to evidence, it would
 15 still -- we would still be in a position where
 16 we're in. Because based on the evidence
 17 presented by the Department and the
 18 Respondent's own testimony, there is
 19 overwhelming evidence of her guilt in this
 20 case. And it is the Department's position that
 21 her conduct, the specifications for which she's
 22 charged warrant termination from her position
 23 with the Department of Education. With respect
 24 to Ms. Wall, like Mr. Riegel stated, she had

1 Closing - John-Stull
 2 the opportunity when Ms. Wall was here as her
 3 counsel and at any time during this proceeding,
 4 if she wanted to get another attorney, she was
 5 free to do so and that argument is without
 6 merit.
 7 With respect to the Ann
 8 Tierny case, the facts in those -- the case --
 9 the facts in the Ann Tierny case is the
 10 criminal conduct warrants the conduct of the
 11 specifications. Here in Ms. Williams' case,
 12 it's not the criminal conduct that she's
 13 charged within the specification but the
 14 insubordination in defying the directives of
 15 the police, of the principal, of the
 16 superintended not to return back to the school.
 17 The only reason why we're here, Mr. Wolf said
 18 is the administration at John F. Kennedy that
 19 wanted Ms. Williams out of the school. The
 20 Department vehemently objects to that position.
 21 The only reason why we're here and the only
 22 person that got the Respondent removed from
 23 John F. Kennedy is the Respondent herself. The
 24 Department has proven that during the 2005-2006

1 Closing - John-Stull
 2 school year, this Respondent while a teacher at
 3 John F. Kennedy High School was insubordinate,
 4 engaged in unprofessional conduct, was arrested
 5 two times, and charged with trespass --
 6 criminal trespass on school grounds. With
 7 respect to Specification One and Two,
 8 Specification One reads on or about October
 9 6th, 2005 the Respondent videotaped students
 10 despite prior warning from Principal Rotunno
 11 not to videotape students and without parental
 12 consent. The Respondent would have us to
 13 believe that this videotaping that she had
 14 conducted during the 2005-2006 school year was
 15 for certification purposes. And she has
 16 alluded to what Mr. Wolf stated that she did in
 17 fact obtain her certification. The evidence
 18 throughout this trial has clearly showed that
 19 the videotaping that the Respondent has charged
 20 with did not surround certification purposes.
 21 There are many student statements where the
 22 students wrote that they were very
 23 uncomfortable with the Respondent videotaping
 24 the class lesson. Also, we heard extensive

1 Closing - John-Stull
 2 testimony from Mr. Rotunno, and he told us --
 3 and even from the Respondent there was a 2003
 4 incident where the Respondent went in to an
 5 assistant principal's office, Shapiro with
 6 students, with protest signs, and cameras and
 7 she demanded the administration to turn over
 8 some computers for her to use in her classes
 9 and when they didn't give it to her, here it
 10 is, she just -- her accompanied with camera and
 11 students and protest signs went to the
 12 assistant principal's office and started
 13 videotaping. Two years prior Respondent was
 14 told that she is not allowed to videotape
 15 students without parental consent and without
 16 the administration's knowledge. The testimony
 17 has shown and the Respondent even admitted that
 18 she never informed the administration at John
 19 F. Kennedy that she was videotaping for any
 20 reason; and as a matter of fact, her exact
 21 words was "I thought they knew because Mr. Kent
 22 complained." It is not Mr. Kent's
 23 responsibility to inform the administration
 24 that she's videotaping even if it is -- even if

1 Closing - John-Stull
 2 it was, for the certification purposes. Not
 3 only that, the testimony throughout here
 4 demonstrated that even if somebody -- if a
 5 teacher is videotaping for certification
 6 purposes, they are supposed to be in the video
 7 and here it is, the Respondent based on the
 8 students' statements and that of Mr. Kent, the
 9 Respondent was videotaping the students and she
 10 was not in the video. So again, it is the
 11 Department's position that the videotaping that
 12 Respondent is charged with was not for the
 13 purpose of her specification.
 14 With respect to prior
 15 parental consent, the respondent stated that
 16 she had obtained parental consent from some
 17 students but not all of the students but as
 18 yet, she failed to present those consent forms
 19 to Mr. Rotunno. With respect to Specification
 20 number Two, the respondent encouraged Ft.Kb. to
 21 cut class while she videotaped that student.
 22 Once again, it is the Department's position and
 23 again, the students handwritten statement is in
 24 evidence and she testified how throughout that

1 Closing - John-Stull
 2 entire month, about a month before, the
 3 Respondent kept trying to meet with her to
 4 discuss teacher Kevin Kent and that she didn't
 5 want to go but finally on October 6, 2005, she
 6 did meet with the Respondent. Mr. Wolf said
 7 here it is this student she was going where
 8 ever the wind blew. How was it that she's
 9 complaining to Respondent about Kevin Kent but
 10 then when she was with Mr. Colon she never
 11 complained about Mr. Kent. It is the
 12 Department's position that the student never
 13 complained to the Respondent about Kevin Kent.
 14 The Respondent is the person who after repeated
 15 attempts finally broke the student down and
 16 took her into this room, a lab prep area that
 17 we heard is a secluded area. Students are not
 18 allowed in that area because it is very
 19 dangerous. And once she got the student in
 20 that room, camera was rolling and she started
 21 asking questions about teacher Kevin Kent. And
 22 also the -- Mr. Kent testified that he even
 23 provided this respondent with regulations that
 24 talked about if you are to be -- if you are

1 Closing - John-Stull
 2 conducting videotaping for certification, the
 3 parameters that it should be conducted in and
 4 he stated that -- and the document is in
 5 evidence in section one point five stated --.
 6 THE HEARING OFFICER: Excuse
 7 me, hold on one second here. Why is that
 8 computer turned around facing Ms. John-Stull?
 9 MR. WOLF: I don't know. I
 10 wasn't aware of it.
 11 THE HEARING OFFICER: Are you
 12 videotaping her?
 13 MS. WILLIAMS: No.
 14 THE HEARING OFFICER: Are you
 15 recording her?
 16 MS. WILLIAMS: No.
 17 THE HEARING OFFICER: Please
 18 turn it around.
 19 MS. WILLIAMS: The video that
 20 isn't entered into evidence that I wanted to at
 21 least show you is ready for your review.
 22 THE HEARING OFFICER: Please
 23 continue.
 24 MS. JOHN-STULL: (Cont'g.)

1 Closing - John-Stull
 2 Section 1.5 stated that student instruction
 3 shall not be impeded by any filming in school
 4 facilities. Every effort should be made to
 5 limit the filming to days and hours when
 6 classes and testing periods are not in session.
 7 Filming in school facilities during school
 8 hours will be permitted only with the approval
 9 of the superintendent and the principal who may
 10 consult with the staff and parents association
 11 in consideration. The Respondent in this case,
 12 although pro se to -- for most of her testimony
 13 was given great latitude in presenting her
 14 case. And she testified at length that number
 15 one, she was fully aware based on the 2003
 16 incident that she was not allowed to videotape
 17 without parental consent and she was not
 18 allowed to videotape without administration
 19 consent and knowledge. And again, and I quote
 20 from the Respondent. She finally admitted that
 21 "I did not directly request approval from
 22 them." And she was referring to the
 23 administration. Here it is also with respect
 24 to Specification number Two in this, I think

1 Closing - John-Stull
 2 it's assistant principal, Volkert testified
 3 that he investigated this incident and he spoke
 4 to the father of Ft.Kb. And that he was very
 5 upset that his daughter had been videotaped
 6 because it was done without his knowledge,
 7 without his consent and more so because it had
 8 absolutely nothing to do with the education of
 9 his child. We're also -- with respect to the
 10 videotaping the -- and I'm going to keep
 11 reminding us why we're here. We are here not
 12 because the administration wanted to get rid of
 13 this Respondent. We're here because in her own
 14 testimony, the Respondent testified, she
 15 demonstrated how she was a menace to the
 16 administration at John F. Kennedy High School.
 17 And she testified, she admitted that on -- that
 18 she usually carries a video camera and that
 19 she's taped herself numerous times and taped
 20 students mostly for photograph of students --
 21 taped mostly photographs of student activities
 22 because "I did a lot of student activities. In
 23 fact, posted on my website are lots of pictures
 24 of kids doing science activities. It didn't

1 Closing - John-Stull
 2 become an issue until I decided to organize a
 3 protest." Respondent's inability to follow
 4 directions had been evident throughout this
 5 entire trial.
 6 MR. WOLF: Objection
 7 referring to the need of protesting First
 8 Amendment that are issues that are not part of
 9 the specification.
 10 THE HEARING OFFICER: Noted
 11 for the record of that.
 12 MR. WOLF: Sorry.
 13 MS. JOHN-STULL: (Cont'g.)
 14 And again, the respondent does admit to
 15 videotaping the students and what she does now
 16 is minimizes the length, the duration of the
 17 videotaping and now claims that it was for
 18 certification purposes. And with respect to
 19 the cutting class, it was clear from the
 20 evidence that at that time the student, Ft.Kb.
 21 belongs to a different class -- and I don't
 22 remember if it was global studies or social
 23 studies and she was escorted to that class by
 24 either Mr. Colon or Mr. Kent. With respect to

1 Closing - John-Stull
 2 specification number three, this is the
 3 incident -- it does say October 28th but the
 4 evidence clearly shows that it was October 27th
 5 the parent-teachers conference night. Here it
 6 is the Respondent would have you to believe
 7 that she had every reason to be at the school
 8 at the parent-teachers conference because her
 9 name was on the list. And she's also claiming
 10 that she had no idea that she was not allowed
 11 to be at the school for parent-teachers
 12 conference but the evidence shows differently
 13 and a lot of it even came from the Respondent's
 14 own lips. She testified that on that same
 15 date, parent-teachers conference, she had gone
 16 up to the school to vote. And -- to vote on
 17 the contract and that when she went there, she
 18 was given a summon and she was told not to
 19 return to the school. She was trespassing. So
 20 if let's say you were to give her credit that
 21 on the day before when she was reassigned, the
 22 letter says go to Van Courtland Street but she
 23 didn't know that she was not allowed back into
 24 the building. Well, on the morning of October

1 Closing - John-Stull
 2 27th, when she returned to vote and she was
 3 then given the summon and told not to report --
 4 return to the school, she was -- she had full
 5 knowledge at that time that she was no longer
 6 allowed at the school. But what did she do?
 7 She showed up that evening for parent-teachers
 8 conference. And the Respondent would have you
 9 to believe that she was arrested outside of the
 10 building but the evidence clearly shows that's
 11 not the case. Because Mr. Bellotti who was
 12 the, I think he was the fireman or custodian
 13 in-charge, he testified that you know, during
 14 those hours he has a walkie-talkie and the
 15 other witness testified that it was during the
 16 parent-teachers conference that they heard on
 17 their radio that the Respondent was being
 18 chased in the building. So eventually, she was
 19 arrested outside of the building but she was in
 20 the building. That is the reason that led to
 21 her arrest. And even so, the Respondent would
 22 have you to believe that she showed up for
 23 parent-teachers conference because her name was
 24 on the list. Well, guess what, she was only

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 2 reassigned the day before and the list was
 3 printed way before the day prior to the
 4 parent-teachers conference. So, obviously her
 5 name is going to be on the list. Not only
 6 that, the Respondent in her own testimony
 7 testified that when she did arrive at the
 8 school for parent -- at the time for
 9 parent-teachers conference was because she was
 10 organizing a protest and she wanted to
 11 encourage the students, once again, to cut
 12 class --.
 13 MR. WOLF: Same objection.
 14 MS. JOHN-STULL: (Cont'g.)
 15 She wanted to encourage the students to cut
 16 class and she testified to this at a length how
 17 she had obtained permit for protest for rallies
 18 telling these students to boycott John F.
 19 Kennedy Jail for kids not to return to school.
 20 And with respect to the violation of C-105, Ms.
 21 Horan clearly testified that the notification
 22 to O.P.I. was not timely. And there is a case,
 23 a recent decision by arbitrator Crangle, and I
 24 will get a copy of that and I will send this to

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 2 both counsel and Mr. Riegel that states that
 3 there should be strict enforcement of C-105 and
 4 that failure to report, you know, in a timely
 5 manner or immediately rather is violation of
 6 that Chancellor's regulation.
 7 THE HEARING OFFICER: It is
 8 noted so.
 9 MS. JOHN-STULL: (Cont'g.)
 10 And again, even when Respondent was arrested on
 11 October 27th the parent-teachers conference one
 12 of the reason -- another reason why we know
 13 that she was not there to speak to parents, she
 14 claims that she was so concerned about her
 15 students, she's showing up because she wants to
 16 talk to their parents. Well guess what, her
 17 testimony says that when she was at the
 18 parent-teachers' conference when she was
 19 arrested, she was in possession of
 20 approximately fifteen hundred flyers. And, you
 21 know, here it is she's encouraging these
 22 students to not go to school; and she also
 23 testified that on September 29th, weeks before,
 24 that there was another protest and it had

1 Closing - John-Stull
 2 gotten rowdy and nine students were arrested.
 3 With that in mind, and here it is the
 4 respondent wants you to believe that she's so
 5 concerned about her students. But yet here it
 6 is, she's encouraging students to protest
 7 knowing that just a few weeks prior, there was
 8 a protest and students got arrested and we also
 9 heard from Mr. Rotunno that once the student
 10 got arrested, he was the one who in essence
 11 bailed these students out, not paid the money
 12 financially, but spoke to the police officers,
 13 got letters written on their behalf so they
 14 would not have a criminal record. With respect
 15 to Specification number Four, this is a
 16 specification that deals with the Apple School
 17 Night and the T-shirts being delivered and
 18 other written materials being delivered to the
 19 students. And again, the Respondent had full
 20 and fair opportunity to present her case and
 21 she did present her case. And she testified,
 22 she admitted that she did mail T-shirts to
 23 students and she did mail flyers to students.
 24 And what the Respondent said was that the

1 Closing - John-Stull
 2 letter from the superintendent says that you
 3 were not suppose to have any contact and
 4 telephone and she said she used another medium.
 5 So she thought it would be okay to e-mail the
 6 students, and as a matter of fact -- and mailed
 7 things to their house. She said she went
 8 around on a technicality. And one of the
 9 things that the Respondent did was in her own
 10 testimony, she said she obtained the addresses
 11 of two of her former students from the internet
 12 and mailed flyers and T-shirts for their
 13 houses. This is not a situation where she is
 14 still their teacher and she mailing homework or
 15 things they need to do in preparation of a
 16 test. She unlawfully obtained their addresses
 17 and mailed materials that had to do with
 18 inciting a riot protesting, rallying to these
 19 students' home. And we heard from one of the
 20 students, Ch.Sm. and she testified that it was
 21 after the Respondent was reassigned that she
 22 saw the Respondent outside of the building; and
 23 she remembered this day because she recalled
 24 that she hadn't seen the Respondent in a while

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 2 and she approached the Respondent. And again,
 3 there are written statements from students that
 4 state they were -- items were mailed to their
 5 house and they were told to disseminate it --
 6 give it to other students and they didn't even
 7 know what was going on. But even if, even if,
 8 you know, one wants to argue that we didn't
 9 hear from those students personally, they
 10 weren't here physically, the respondent
 11 admitted mailing these flyers and mailing these
 12 T-shirts to the students' home. And again, I
 13 think it is key, it is key, it is very
 14 important when you read the transcript or
 15 review the record how she continues to go
 16 around the directive that's given to her early
 17 in the morning on the 27th, she was given a
 18 summon to trespass. What did she do hours
 19 later? She shows up with protest signs and
 20 flyers. Here it is she's told not to have
 21 contact with the students, not to telephone
 22 them and not to come to the school and what
 23 does she do? She mailed -- she used the postal
 24 service.

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 2 And actually, what I would like to do is read
 3 with respect to Specification Four-B which
 4 talks about the T-shirts, I'm redirectly
 5 quoting from the transcript. The respondent
 6 stated, "I formally canceled the event with
 7 Soho before theater manager Frank Bonobo after
 8 receiving a menacing letter from Ms. Pollina,"
 9 B -- and this is before -- and this is in her
 10 direct testimony "though technically, I did
 11 not, I purposefully and indirectly went around
 12 the directive from the local superintendent,
 13 Ms. Pollina. She wrote that I was quote not to
 14 contact students directly or via e-mail in a
 15 letter dated October 26th, 2005 but actually
 16 post marked October 28th, 2005. So, I did not.
 17 There was no prohibition not to mail or send
 18 out an agent to act on my behalf. So, I did
 19 that instead." That's what she did.
 20 With respect to Specification
 21 number Five, to read, the Respondent once again
 22 tried to enter the building. The Respondent
 23 testified that she had prior permission to go
 24 to the building to retrieve her property but on

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 2 the day that she showed up there, she did not
 3 have permission in hand. She did not have any
 4 physical permission. And so here it is, hence
 5 the specification that she was told not to show
 6 up without prior authorization but then went to
 7 the building without the authorization.
 8 Specification number Six is
 9 very interesting because here it is, the
 10 Respondent again, she admitted going to the
 11 building. She admitted being arrested in the
 12 building but now what she testified to is the
 13 day that she showed up at the building, there
 14 is absolutely no security guard at the entrance
 15 that she used so she went straight up to the
 16 room to retrieve her belongings. With all the
 17 problems that she'd had in the past with the
 18 administration and knowing that she shouldn't
 19 even be there, common sense would dictate that
 20 number one, she would go to the main office and
 21 let them know, here, I am here to pick up my
 22 things. There is no one at the security area,
 23 I'm just letting you know. But instead, she
 24 went to the room where her things were at least

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 2 she was attempting to go there and she was
 3 placed under arrest. Mr. Riegel, I have to
 4 tell you that this is really -- the Department
 5 is here asking for the termination of the
 6 Respondent's employment with the Department,
 7 and I have to tell you it is really an easy
 8 decision to make. And that is based on all of
 9 the evidence. You know, I typed out a thirteen
 10 page summation and I didn't go through it word
 11 for word but I must say that it is based on the
 12 testimony that is in evidence and I know that
 13 you will read this transcript page per page.
 14 And it is -- you know, doing that, it just
 15 makes it easy to terminate this Respondent
 16 because she continued, she continued, she
 17 continued to defy the directives from the
 18 administration of the school, the directives of
 19 the superintendent, the directives of the
 20 police when she was told not to return to the
 21 school and even the directives of you
 22 throughout this entire hearing and even today,
 23 here it is, she has counsel present, she
 24 attempted to do the same thing that she --

1 Closing - John-Stull
 2 treat Mr. Wolf the same way that she attempted
 3 to treat Ms. Walls. Where they're the
 4 attorney, they're the ones that should be
 5 speaking on the record but now, she wants to
 6 push papers towards them and insist and even
 7 speak on the record clearly a person that is
 8 insubordinate. Mr. Wolf presented us with or
 9 at least had in his possession a copy of a
 10 plaque that she received from Who's Who Among
 11 Teachers and said she's intelligent. As matter
 12 of fact, one of the Department's witnesses says
 13 that she is an intelligent person. But guess
 14 what, she is not charged with being
 15 incompetent. She's charged with being
 16 insubordinate, she's charged with engaging in
 17 unprofessional conduct and she's charged with
 18 trespassing when she was told that she has no
 19 right to return to the school. And with that
 20 being said, I am going to rely on the record.
 21 THE HEARING OFFICER: Thank
 22 you very much. We are adjourned at one fifteen
 23 P.M. on this date. Upon the receipt of the
 24 transcript, I will review the record and issue

1 Natalie Williams - 7-22-2009
 2 a decision. Thank you all.
 3 MR. WOLF: I would like to
 4 have the closing argument sent to Ms. --
 5 MS. WILLIAMS: Let trials be
 6 sent to Ms. Williams.
 7 THE HEARING OFFICER: No --.
 8 MS. WILLIAMS: And a tape
 9 recording.
 10 THE HEARING OFFICER: Will be
 11 sent to you and you can transmit it to --.
 12 MS. WILLIAMS: Okay. We
 13 would like both paper and electronic form.
 14 THE HEARING OFFICER: Will be
 15 sent to your counsel which is the appropriate
 16 procedure and he can then if he would like to
 17 send it to you.
 18 MS. WILLIAMS: I'm sitting
 19 in the room by myself. We, we, we are Kennedy.
 20 The little students, young mind stay free at
 21 present future, you come to me, they are trying
 22 to take you away from me but I want you to know
 23 that this can't be. Thank you. Thank you for
 24 defending me. A teacher is what I was made to

1 Natalie Williams - 7-22-2009
 2 be. I influence you, you influence me. You are
 3 the me I was to be. I am that you must see.
 4 An emphasis they call to be. To action for we
 5 must all agree in the white power system down
 6 at the bottom is we. This is our community you
 7 see. We, we, we are Kennedy. A radical, a
 8 leader, an activist. You. How could you be not
 9 with all you have been through. Liberate
 10 yourself from anti-slavery. We, right, we read
 11 some of the books for me. No one, no body
 12 shall take over me instead of cover their
 13 asses, take no stands, survive just be. So you
 14 classroom we are confident suppress your
 15 intellectuality. Then proclaim to the world
 16 that she must be crazy. Forever your teachers,
 17 you are mine you see. You told me so, the
 18 nickname fits to a tee. I'll always remember
 19 Miss -- you a G. Who now will plant the seeds,
 20 grow the children, renew our citizenry. Rap to
 21 this song, add a beat, sing with the lips. Our
 22 words have power and these are meant to be
 23 felt. This is our community you see. We, we,
 24 we are Kennedy.

1 Natalie Williams - 7-22-2009
 2 THE HEARING OFFICER: I would
 3 want to note for the record that Ms. Williams
 4 despite having been told that the poem that she
 5 just read is part of the record. and in my
 6 presence was advised by her counsel that it is
 7 part of the record, has once again, insisted
 8 upon creating what she believes her own rules
 9 and this then will be considered as part of the
 10 overall record since she's insisted upon the
 11 behavior which led to this being recorded. We
 12 are adjourned at one twenty p.m.
 13 Thank you very much;
 14 (Off the record)
 15 (The hearing concluded at
 16 1:20 p.m.)
 17
 18
 19
 20
 21
 22
 23
 24

1 Natalie Williams - 7-22-2009
 2 I, Amy Pike, do hereby certify that the
 3 foregoing was taken by me, in the cause, at the
 4 time and place, and in the presence of counsel,
 5 as stated in the caption hereto, at Page 1528
 6 hereof; that before giving testimony said
 7 witness(es) was (were) duly sworn to testify
 8 the truth, the whole truth and nothing but the
 9 truth; that the foregoing typewritten
 10 transcription, consisting of pages number 1528
 11 to 1597, inclusive, is a true record prepared
 12 by me and completed by Associated Reporters
 13 Int'l., Inc. from materials provided by me.
 14
 15 _____
 16 Amy Pike, Reporter
 17
 18 _____ Date
 19
 20
 21
 22
 23
 24

1 Natalie Williams - 7-22-2009
 2 E R R A T A S H E E T
 3 Case: Natalie Williams, File #8,253
 4 Date: July 22, 2009
 5 CORRECTIONS:
 6 Page _ _ line _
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1 Natalie Williams - 7-22-2009
 2 NAME INITIAL INDEX
 3 Anisha Akbar Ah. Ak.
 4 Konate Bengali Ko. Bg.
 5 Ryan Chase Rn. Ca.
 6 Laura Delacruz Lr. Dc.
 7 Joelle Delasantos Jl. Ds.
 8 Sharella Drakes Sh. Dk.
 9 Crisaly Duran Cy. Dn.
 10 Keisha Durgprasad Ke. Du.
 11 Christian Haley Cs. Hl.
 12 Fanta Kaba Ft. Kb. (Fantanguah)
 13 Fantanguah Kaba Fg. Kb. (Fanta)
 14 Fantasia (ph) Kaba Fn. Kb. (Fanta)
 15 Zuinda Leon Zn. Ln.
 16 Crystal Macogne Cr. Ma.
 17 Martha Marulanda Mh. Mu.
 18 Sybil Olmo Sy. Ol.
 19 Natalie Puntier Nt. Pt.
 20 Jose Ramos Jo. Ra.
 21 Emelin Reyes Em. Re.
 22 Vinnie Santiago Vi. Sa.
 23 Charise Smith Ch. Sm.
 24 Miguel Vivar Mi. Vi.
 25 Tanisha White Ta. Wh.

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