

8-PELRB-2026

**STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

In re:

**McKINLEY COUNTY FEDERATION OF
UNITED SCHOOL EMPLOYEES LOCAL
3313, AFT-NM,**

Complainant,

v.

PELRB No. 102-25

**GALLUP-McKINLEY COUNTY PUBLIC
SCHOOLS,**

Respondent.

ORDER

THIS MATTER comes before the Public Employee Labor Relations Board at its regularly scheduled meeting on March 18, 2026, for *pro forma* adoption of the Hearing Officer's Report and Recommended Decision issued in this case pursuant to NMAC 11.21.3.19(D). The Hearing Officer issued her report on January 27, 2026, and no request for Board review was filed by either party. Accordingly, the Board adopts the Hearing Officer's Recommended Decision and the decision is binding on the parties but does not constitute binding precedent.

DocuSigned by:

Nan Nash

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Date: 3/19/2026

Nan Nash, Board Chair

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LOCAL 3313, AFT-NM,**

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PELRB No. 102-25

GALLUP-McKINLEY COUNTY SCHOOLS,

Respondent.

**ORDER GRANTING RESPONDENT’S MOTION TO REJECT UNION PROFFERS
AND DISMISS THE PPC BASED ON PLEADINGS AND EXISTING RECORD**

INTRODUCTION AND PROCEDURAL BACKGROUND

This matter involves the investigation and subsequent termination of a Local Union President, Sawyer Masonjones, who had a separate two-day personnel hearing before the Gallup-McKinley County Board of Education (a.k.a. School Board), on May 19, 2025 and June 18, 2025.

The instant motion comes before the undersigned Hearing Examiner pursuant to a Prohibited Practice Complaint (PPC) first filed on January 28, 2025; and a series of pre-hearing pleadings and affidavits that were directed or invited by the undersigned, as part of her earlier October 2025 ruling on a motion to dismiss, based on the alleged collateral estoppel and/or *res judicata* effect of the prior School Board personnel. *See* H.E. Interim Order on Motion to Dismiss dated 10/3/25 (“October Order”) (incorporated and adopted herein except as otherwise noted).

The original PPC alleged that the School District violated Sections 5¹, 15², and 19(A) - 19(H)³ of the Public Employee Bargaining Act (PEBA), by investigating the Local President,

¹ Section 10-7E-5 (interfering with the right to engage in concerted activities for mutual aid or benefit).

² Section 10-7E-15 (allowing the certified representative to meet with and have reasonable access to bargaining unit members; use the employer’s e-mail system; and communicate with employees regarding matters of the governance or business of the Union).

³ These provide as follows, respectively:

Sawyer Masonjones, “in retaliation for him carrying out his Union duties and engaging in activity protected by PEBA.” It was amended on March 19, 2025, only to add a claim that the District had issued a notice of its intent to terminate several days after he successfully overturned a January 2025 Letter of Reprimand related to the January investigation. The School District answered both the original and amended PPCs by general denial, and asserting legitimate action and good faith.

The matter was set for a hearing on the merits for March 10, 2025, which was converted to a Status and Scheduling Conference. There it was re-set for a merits hearing on April 22, 2025, which was also converted to an S&S conference, and then rescheduled to May 2, 2025.

On May 2, 2025, the undersigned held another Status and Scheduling Conference on the instant PPC, as by then amended. There, the Parties advised the undersigned that Mr. Masonjones’ termination recommendation was scheduled later that month for review before the School Board. The Hearing Examiner directed the Parties to “file any dispositive pre-hearing motions as soon as practicable after issuance by the Gallup-McKinley Board of Education of a final decision...” *See* Scheduling Notice dated 5/7/25.

On June 18, 2025, at the conclusion of the two-day personnel hearing, the School Board upheld the recommendation to discharge Mr. Masonjones. The District then filed its Motion to Dismiss the PELRB PPC on July 10, 2025. There, the District argued that the fact that Mr. Masonjones was discharged for just cause had been fully heard and determined by the School Board, pursuant to the New Mexico School Personnel Act; and that the determination of the Board is now binding under theories of collateral estoppel and/or *res judicata*. It further argued, in the alternative, that the PELRB Hearing Examiner should utilize the evidentiary record created in the

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- a. Section 19(A) (making it a prohibited practice to “discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership in a labor organization”);
 - b. Section 19(B) (making it a prohibited practice to “interfere with, restrain or coerce a public employee in the exercise of a right guaranteed” by PEBA);
 - c. Section 19(C) (making it a prohibited practice to “dominate or interfere in the formation, existence or administration of a labor organization”);
 - d. Section 19(D) (making it a prohibited practice to “discriminate in regard to hiring, tenure or a term or condition of employment in order to ... discourage membership in a labor organization”);
 - e. Section 19(G) (making it a prohibited practice to “refuse or fail to comply with a provision of” PEBA); and
 - f. Section 19(H) (making it a prohibited practice to “refuse or fail to comply with a collective bargaining agreement”).

School Board termination appeal, to issue her findings and conclusions as to the PEBA claims asserted in the PPC.

The Union countered that the School District failed to establish all of the elements of either estoppel or *res judicata*. It also argued that the record from the Board of Education personnel hearing was unreliable and inadequate because the School Board's attorney served as the hearing officer and excluded evidence essential to the Union's claims of pretext, retaliation, and/or anti-Union animus.

In her October Order, after full and exhaustive review of the School Board proceedings and record, the undersigned concluded the School Board proceedings and record were reliable and robust and should be used in the interests of administrative efficiency, if supplemented by any available evidence of pretext or retaliation that was omitted or excluded. The undersigned gave the Union an opportunity to develop the record as to its claims of pretext and retaliation, with certain limitations related to the nature and posture of the case. This was due to the fullness of the record related to evidence of misconduct and generalized assertions of retaliation, compared to the ambiguity of what specific retaliation evidence was sought for admission by the Union, admitted by the School Board Hearing Examiner (Mr. Sanchez, Counsel for the District here), and/or considered by the School Board in rendering its decision.

Nonetheless, having fully read the School Board transcript to rule on the Motion to Dismiss, the undersigned was skeptical that there was additional evidence available related to retaliation or pretextual termination, beyond that already allowed before the School Board. The undersigned observed that ample testimony was allowed from Mr. Masonjones (who himself testified for three and a half hours) and other of his witnesses about retaliation, even if not as much as he or they desired. Evidence of retaliation that did come in or was referenced suggested Mr. Masonjones had little to proffer besides: (a) the fact that he was previously well evaluated before becoming the Local President; (b) his unshakable personal belief and conclusory opinion that he had been retaliated against; and (c) other Union witnesses' vague claims of past retaliation or "lack of support". See Oct. Order, Appendix, Summary of School Board Audio Transcripts; Appendices B-C, herein⁴; and Masonjones School Board Recordings at

⁴ Appendices B and C are the undersigned's synthesis and reduction of the October Appendix and the October Appendix itself is the undersigned's synthesis and reduction of the two-day School Board hearing.

<https://www.youtube.com/live/ZzgNh0Ekd70>

(5/19/25)

and

<https://www.youtube.com/live/y8AxSMXDX8U> (6/18/25) (last accessed 9/26/25).

Accordingly, the undersigned required the Union to support its claims that evidence of retaliation was improperly excluded and that the Union had additional material evidence to proffer on a matter in genuine dispute. She further required the Union to support its proffer by Affidavit from appropriate persons with first-person knowledge of proffered testimony, or knowledge of the foundation of proffered documents, as well as a proffer of whether such evidence was raised in the School Board proceedings or why not. The undersigned also noted the potential of a summary judgment determination *sua sponte*, ruling as follows:

The **recordings from the May 19 and June 18, 2025 hearings** before the Gallup McKinley County Schools Board of Education are herein **adopted, along with all exhibits** admitted in the record, **and any offered by the Union to the School Board for the purposes of demonstrating retaliation or anti-Union animus.**

The Parties shall confer amongst themselves and with the undersigned to set the matter for further hearing solely on the issue of retaliation and/or discrimination based upon Mr. Masonjones' Union involvement or activities. The resultant testimony shall not duplicate that already received by the Board of Education, or it shall rigorously minimize any such duplication and allow it only to the extent required for context and comprehension of the PELRB testimony. The School District will be allowed to respond to or rebut any new evidence offered by the Union.

Within 10 business days of receipt of this Order, the Union shall make an evidentiary proffer to the PELRB concerning any supplemental evidence of retaliation it believes is relevant and necessary for the undersigned's consideration. In affidavit form, it [the Complainant] shall identify with specificity all of the testimonial and documentary evidence that it seeks to introduce on the issues of retaliation and/or discrimination; and, if such evidence was not raised before the School Board, why not. At a minimum, the Union **may proffer any retaliation-related exhibits or testimony excluded from the School Board personnel hearing, and testimony from Mr. Masonjones' direct supervisor(s) and/or Principal Gar[r]o of Miyamura High School if he did not have the opportunity to call such witness(es) before the GMCS Board...**

The Parties are advised that the **undersigned may determine sua sponte, upon consideration of the Union's proffer of additional evidence, that further evidentiary hearing before the PELRB is either not appropriate or not necessitated under the record...**

The Oct. Order Appendix is adopted and incorporated in full herein, with the exception that many or all of the listed Fall 2025 dates should instead be identified as Fall 2024 dates.

See Oct. Order at 35, emphases added; *see also* *Martinez v. Logsdon*, 1986-NMSC-056 (that a trier of fact is not barred from *sua sponte* granting summary judgment if there is no material factual issues in dispute).

Only the Union was directed to provide affidavits because the burden had shifted to the Union, after the undersigned's October ruling, to show that the District's asserted legitimate business justification was pretextual and that, under the adopted record evidence of misconduct, the District would not have terminated Mr. Masonjones but for Mr. Masonjones' exercise of PEBA rights or involvement with the Union. *See* Oct, Order at 31-34; *see also* *Wright Line*, 251 NLRB 1083 (1980). As the undersigned explained in her October Order,

Under the *Wright Line* test, the Union does not have a heavy initial burden. It must first only make a "make a *prima facie* showing sufficient to support the inference that protected conduct was a '**motivating factor**' in the employer's decision" to take certain adverse employment action", *In Wright Line*, 251 NLRB 1083, 1089 (1980), by showing there was (a) union activity, (b) knowledge of such union activity, and (c) anti-Union animus. *See* *Carpenters*, *supra*. Animus, moreover, can be inferred from circumstantial evidence, *id.*, such as the timing of events.

However, if the Employer produces evidence that it acted for legitimate business purposes (including issuing discipline for proven misconduct), the burden will shift back to the Union to demonstrate by a preponderance of the evidence that the proffered justification is actually pretextual, and that the employer would not have taken the action it did "but for" the employee's protected status or activity. *Wright Line*, *supra*; *see also* *AFSCME Local 2499 v. Bernalillo County*, PELRB Case No. 106-25, Hearing Examiner Report (Huchmala 2025) (discussing the *Wright Line* burden shifting scheme and pretext cases, as well as the "preponderance" standard of proof in general and as applied under a *Wright Line*-style analysis).

See Oct. Order at 32, emphases added; *see also* *Wright Line*, 251 NLRB 1083 (1980), and *CWA v. Dept. of Health*, PELRB Case No. 108-08, Hearing Examiner's Report (July 15, 2008); *Goodenough v. State of New Mexico*, No. D-101-CV-2020-01743 (B. Biedscheid; April 30, 2021); *Peñasco Federation of United School Employees v. Peñasco Independent School District*, PELRB No. 108-20 (2021) (all adopting and applying the *Wright Line* analysis).

In response, and with additional prompting for specificity from the undersigned, the Union ultimately submitted two affidavits, both from Mr. Masonjones. (Masonjones First Affidavit dated 10/17/25; Masonjones Second Affidavit dated 10/31/25; H.E. email dated 10/21/25; and October Order at 32-35.) The purpose of the undersigned's prompt was to ensure, consistent with the October Order, that the evidence requested was non-cumulative and relevant to question of

retaliation and/or pretextual termination under the *Wright Line* analysis that would ultimately be applied. In particular, the undersigned repeatedly noted the need for “concise but specific explanation[s]” for the “relevance/intended use” of a variety of proffers (H.E. email dated 10/21/25), and she subsequently rejected many of the Union’s proffers based on the criteria she had already established. *See* H.E. email dated 10/31/25.

As a result of the undersigned’s various October rulings, a slight majority of the Union’s proffers were rejected as inadequate under the October Order and applicable standard; a few items were presumptively accepted or admitted but not provided; and the final inclusion or exclusion of some remained before the undersigned. At that point, the undersigned directed that “[t]he District may respond to any proffered evidence to be admitted, as provided herein or previously.” *See* H.E. email dated 10/31/25.

On November 11, 2025, the District filed the motion now pending, titled Respondent’s Response to Proffered Evidence. There it argues that the Union’s remaining proffers fail to meet the terms of the undersigned’s October Order and October 21, 2025 email instructions, and fail to show a material fact in dispute related to pretext or retaliation. It further argues that the undersigned should therefore adopt the evidentiary record of the School Board proceedings, adopt the decision to discharge him as dispositive of the issues raised in the PPC, and find that the District did not commit any PEBA violations as alleged in the PPC.

Based on the language used by the District in its Response, as well as the current procedural posture and existing evidentiary record, the undersigned deemed the Response to also be a Motion for Summary Judgment on the issue of retaliation. (H.E. email dated 11/21/25; District’s Response/Motion at 5-6, citing standards and case authority for a motion for summary judgment.) The Union submitted its response to the District’s Response on December 18, 2025. It argues that “since the onset of this case...[the District] has frustrated the Union’s attempts to present evidence in support of the Union’s retaliation claims”; and that it has met the terms of the October Order. It also argues that it “has made abundantly clear throughout these proceedings that the reason this evidence was not presented at the School Board[] Hearing was because the School Board barred the Union from presenting this evidence.” (Union Resp. at 5.)

This Order is timely issued upon an extension of time pursuant to NMAC 11.21.1.31. Upon consideration of the pleadings, the relevant legal standards, and the entire record before her, and for the reasons explained below, the undersigned Hearing Examiner determines that there are no

material disputes of fact remaining to be resolved in this matter; that the Union failed identify evidence in support of its claim that the proven misconduct was a pretextual justification; and that the School is entitled to judgement as a matter of law. Accordingly, the undersigned finds, concludes, and recommends that no further hearing is needed; that the District's motion be GRANTED; and that the PPC be DISMISSED.

RELEVANT LEGAL STANDARDS

For summary judgment, the PELRB utilizes, as guidance, the New Mexico Rules of Civil Procedure, Rule 1-056 when deciding a motion for summary judgment. *See AFSCME Council 18 v. New Mexico Department of Labor*, 01-PELRB 2007 (Oct. 15, 2007). Under Rule 1-056 NMRA, summary judgment shall be granted when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Id.*

In issuing a summary determination, the decision-maker may not weigh evidence or credibility. Instead, she has the duty of viewing the pleadings and all the testimony and evidence submitted in the most favorable light and manner possible, in support of proceeding to an evidentiary hearing. *Wheeler v. Board of Cnty. Comm'rs*, 1964-NMSC-081, 74 N.M. 165, 391 P.2d 664; *Brazell v. Save-On Drug, Inc.*, 1968-NMCA-095; *Hubbard v. Mathis*, 1963-NMSC-126; *Institute for Essential Hous., Inc. v. Keith*, 1966-NMSC-067; *Las Cruces Country Club, Inc. v. City of Las Cruces*, 1970-NMSC-016. Additionally, summary judgment is an extraordinary remedy that is viewed with disfavor, unless warranted under the undisputed material facts and relevant law. *See Romero v. Philip Morris Inc.*, 2010-NMSC-035, ¶ 8, 148 N.M. 713.

Nonetheless, summary judgment serves a vital function: to avoid unnecessary litigation and expense associated with full-blown trials over claims or defenses that are without merit or that cannot be proven. *Goodman v. Brock*, 1972-NMSC-043, ¶ 11, 83 N.M. 789; *see also* Rule 1-056(C) NMRA (that summary judgment “shall be rendered forthwith if the pleadings...together with affidavits, if any, show that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law”); *Goffe v. Pharmaseal Labs., Inc.*, 1976-NMCA-123, *rev'd in part on other grounds*, 1977-NMSC-071 (the purpose of summary judgment proceeding is to expedite litigation by determining whether a party possesses competent evidence to support his pleadings so as to raise genuine issues of material fact and, if he has not,

then to dispose of the matters at that state of the proceeding.); *see also Stake v. Woman's Div. of Christian Serv. of Bd. of Missions*, 1963-NMSC-221 (the purpose of summary judgment is to search out the evidentiary facts and determine the existence of a material issue from them); *Jelso v. World Balloon Corp.*, 1981-NMCA-138 (the purpose of this rule is to eliminate a trial in cases where there is no genuine issue of fact although such an issue is raised by the formal pleadings); *Agnew v. Libby*, 1949-NMSC-004 (that this rule is obviously designed to expedite litigation by eliminating needless trials and by avoiding frivolous defenses delaying determination of the legitimate issues); and *Logsdon, supra* (that a trier of fact is not barred from *sua sponte* granting summary judgment if there is no material factual issues in dispute).

To support summary judgment, there need only be a *prima facie* showing that a movant is entitled to summary judgment. *Roth v. Thompson*, 1992–NMSC–011, ¶ 17, 113 N.M. 331. The burden then shifts to the opposing party – here, the Union – to demonstrate the existence of specific evidentiary facts that justify a trial on the merits. *Id.*; *see also Security Bank & Trust v. Parmer*, 1981-NMSC-118, ¶ 6, 97 N.M. 108 (a respondent is not required to show the existence of issues of fact until the movant has satisfied its burden).

Importantly, however, the party opposing a motion for summary judgment cannot rely on the allegations in the Complaint, and it must instead demonstrate the existence of genuine issues of material fact by way of sworn affidavits, depositions, and similar evidence. *Juneau v. Intel Corp.*, 2006-NMSC-002, ¶ 15, 139 N.M. 12. Additionally, “[a] conclusory, self-serving affidavit, lacking detailed facts and any supporting evidence, is insufficient to create a genuine issue of material fact.” *Maxwell v. Kelly Servs., Inc.*, 730 F. Supp. 2d 1254, 1272 (D. Or. 2010) (emphasis added), citing *Kennedy v. Applause, Inc.*, 90 F.3d 1477, 1481 (9th Cir. 1996); *see also Thornhill Pub. Co. v. General Tel. & Electronics Corp.*, 594 F.2d 730, 738 (9th Cir. 1979) (finding no material question of fact where the plaintiff relied on affidavit that averred general facts based on “common knowledge).

Moreover, due to this case’s unique procedural posture, many of the fact questions ordinarily in dispute in a PEBA retaliation/interference PPC have already been resolved based on the existing School Board record that the undersigned has adopted. Specifically, in her October Order the undersigned found and concluded as follows:

In this case, the GMCS School Board hearing produced a reliable record that is adequate to establish ... a prima facie case of retaliation under PEBA...

...

Second, the undersigned also hereby finds and concludes based on the adopted School Board record that the School District met its burden to demonstrate by a preponderance of the evidence that it had a legitimate and non-retaliatory justification for terminating Mr. Masonjones.

Some of the allegations against Mr. Masonjones were not shown under the GMCS Board record to arise to terminable misconduct...

Nonetheless, cumulatively, there was a preponderance of evidence that could support the charges and termination, if the witnesses and documentary evidence against Mr. Masonjones are credited and/or his defenses and explanations are discredited. Although the undersigned does not hereby decide whether he was terminated for just cause, she does find and conclude that the School District showed some legitimate business reasons for their termination decision based upon the record of the personnel hearings. Additionally, Mr. Masonjones was allowed to respond to those allegations, providing explanations or justifications in mitigation. Accordingly, further evidence on the basis of the charges against Mr. Masonjones, or his responses thereto also are not required.

As such, the ultimate burden has now shifted back to the Union to demonstrate a PEBA violation. It may do this, as discussed, by showing that the School District's proffered justifications were **pretextual** and that, instead, "retaliation was the motivating factor for the administrative leave, investigation, and discharge of Mr. Mason." (Un. Sur-Reply at 6.) Compare PELRB 106-25, *supra* ("The question is whether the investigation is *because of* his union activity, not whether it is *about* his union activity").

(*Id.* at 32-34, emphasis added.)

To show pretext, a Claimant must produce evidence of "such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its action that a reasonable fact-finder could rationally find them unworthy of credence and hence infer that the employer did not act for the asserted non[retaliatory] reasons." See, e.g., *Argo v. Blue Cross & Blue Shield of Kan., Inc.*, 452 F.3d 1193, 1203 (10th Cir. 2006) (emphasis added), quoting *Morgan v. Hilti, Inc.*, 108 F.3d 1319, 1323 (10th Cir. 1997) (quoting *Olson v. Gen. Elec. Astrospace*, 101 F.3d 947, 951-52 (3rd Cir. 1996)); see also *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 515, (1993) (a reason is not a "'pretext for [retaliation]'" unless it is shown both that the reason was false, and that discrimination was the real reason"), and *Randle v. City of Aurora*, 69 F.3d 441, 451 n.14 (10th Cir. 1995) (an employer is entitled to judgment if the employee "could not offer evidence tending to show the defendant's innocent explanation for his employment decision was false").

STATEMENT OF THE RECORD AND UNDISPUTED FACTS

Events Immediately Preceding and/or Giving Rise to the PPC

1. On January 22, 2025, Mason Jones was issued a Letter of Reprimand (LOR) for sending out a lengthy Union-related email while on work time that did not fall with the terms of Section 15 of PEBA (rights of the Union to communicate with employees on duty and to use the employer's email for grievances and contract administration). Mr. Masonjones grieved the LOR and in the process he admitted misconduct. He asserted in mitigation that the email was primarily crafted during non-duty hours; that he only hit "send" or made "minor edits" during instructional or "contract" time; and that this did not interfere with School operations. (Oct. Order, Appendix.)
2. The District ultimately agreed during the grievance process (in March 2025) to remove the LOR from Mr. Masonjones' personnel file because he had not been allowed Union representation when the LOR was issued, in violation of the Parties' collective bargaining agreement (CBA). Nonetheless, on January 22, 2025 Mr. Masonjones was expressly directed and agreed to cease sending Union-related emails during work time for any reason and to any extent. (Oct. Order, Appendix.)
3. Two days later (on Friday, January 24, 2025), Mr. Masonjones sent out more Union-related emails during work time that did not fall with the terms of Section 15 of PEBA. Although not necessarily material to the instant PPC and its current procedural posture, the undersigned credits Mr. Masonjones' testimony of mitigation before the GMCS Board, that he had just become the Acting President and was anxious to get feedback from the State AFT President (Whitney Holland) on an email he was crafting to send that day, before noon, to Superintendent Hyatt. (Oct. Order, Appendix.)
4. The District learned of one of these prohibited emails because Mr. Masonjones inadvertently included GMCS Superintendent Mike Hyatt. Upon learning Mr. Masonjones had re-offended so soon, the District initiated an investigation into why Masonjones was continuing to send unauthorized or prohibited Union emails during instruction time, after being corrected only two days prior. (Oct. Order, Appendix.)
5. As part of their investigation into the new Union-related emails sent during contract time, the School District learned of allegations of other serious misconduct involving willful neglect of

student attendance and safety, and willful neglect of instructional duties, as detailed below. (Oct. Order, Appendix.)

6. On Monday, January 27, 2025, the District placed Mr. Mason on paid administrative leave pending further investigation. (District Letter to Masonjones dated 7/27/25; Oct. Order, Appendix.)
7. The following day (January 28, 2025), the Union filed the instant PPC on Mr. Masonjones' behalf. It alleged that the District placed him on leave and subjected him to investigation because he was the incoming Local President and "in retaliation for him carrying out his Union duties and engaging in activity protected by PEBA." (PPC at ¶ 14; *see also* (Oct. Order, Appendix.)

Investigation, Personnel Hearing, and Other Related Events

8. The District's subsequent investigation was conducted by Assistant Superintendent K'Dawn Montaña and District Investigator Darren Soland. They have many combined decades' experience in HR matters, and Mr. Soland is also retired from law enforcement. (Oct. Order, Appendix.)
9. The investigation was full and fair. It consisted of interviews with Administrators, Staff, and ten (10) of Mr. Masonjones' current and former Health Pathways Dual Credit students. (Mr. Mason had began with the semester with approximately 33 Dual Credits students split roughly equally between Freshmen Experience and Health Pathways courses, but all 18 of the Freshman Experience students had dropped out of his class by the time of the investigation, as a result of inflexible College grading/homework policies, and only 13 students in the Health Pathways course remained.) The District also reviewed email records, teaching plans, and other documentary evidence; consulted with the IT Department; and interviewed Mr. Masonjones himself with a Union representative present. (Oct. Order, Appendix.)
10. On March 3, 2025, the January 22, 2025 LOR was removed from Mr. Masonjones' personnel file, because of the failure to afford him Union representation as required under the Parties' CBA. (Oct. Order, Appendix.)
11. On March 12, 2025, the District issued Mr. Masonjones a lengthy Notice of Intent to Discharge pursuant to NMSA § 22-10A-27 (2019) (the New Mexico School Personnel Act). The Superintendent found just cause to discharge him based upon the District's investigation and the following charges and evidence, as summarized by the undersigned:

- (a) his students consistently reported that he neglects his students and teaching responsibilities by remaining seated in his chair with his feet up 90% of the time;
- (b) Staff members have observed him lying under his desk to watch TikTok videos, with his shoes off;
- (c) most of his Students confirmed his excessive use of his personal cell phone for non-school purposes, which included watching and cursing about TikTok videos with his students;
- (d) his students reported he regularly left the classroom during instructional time to talk to other teachers, and also allowed other Staff to come talk to him during instructional time;
- (e) all of his Health Pathways students reported that he failed to give them more than one supplemental assignment the entire year, although the Dual Credit teacher is specifically directed that “students should at no point sit idle in class” and the Dual Credit teacher’s role is to attend and supplement the College professors’ classroom instruction, to ensure the students are learning the material and succeed;
- (f) his students reported that he let them sleep, play on their phones, etc. when done with their work, and that he failed to provide help and support when his students requested it, instead referring them to the college professor;
- (g) email correspondence reveals that he imposed his teaching duties upon the college professor;
- (h) all of his students reported that he used an “open e-pass system” unlike other teachers, allowing students to leave for non-school purposes;
- (i) his students reported that he failed to take attendance and that ditching Mr. Masonjones’ class was therefore common, including by students Mr. Masonjones was escorting to the college campus, both of which Mr. Masonjones admitted;
- (j) the majority of his students reported that it was common to vape nicotine and/or cannabis in his class and that he evidenced his awareness by saying things like “not in my class” but did not take disciplinary action;
- (k) students and Staff reported that he blacked out his windows, kept his lights off and door locked, and instructed his students to pretend like they were learning or engaged if an Administrator came to the class; and
- (l) he allowed one female student to eat lunch alone with him in his class.

(Notice of Intent to Discharge; *see also* Oct. Order, Appendix.)

12. Based on the investigation’s findings, Superintendent Hyatt concluded that Mr. Masonjones violation of District Policy provided just cause for his termination, as follows:

1. You have displayed no resemblance of professionalism; provided no relevant excuse for knowingly ignoring School District’s policies, directives and applying common sense to your actions. You simply ignored your assigned duties and responsibilities to follow the directives given to you and to provide meaningful instruction to your students and properly supervise your students and protect them from harm or setbacks in their education. Your actions were unprofessional, unethical and unacceptable, and they are in violation of Board of Education Policy ...

2. Engaging in a persistent and willful pattern of misconduct with regard to the implementation of supervisory policies...and failing to comply with lawful directives given you; lying to your supervisor and to the School District's investigators to conceal your misconduct; failing to provide meaningful instruction to your students and failing to properly supervise your students...
3. Your unsuitability for continued and future employment is clearly demonstrated by your actions to conceal your classroom and classroom activities from supervision, using students to conceal your deceitful conduct to conceal your misconduct, you failing to discipline students for use of clearing prohibited and harmful contraband, you allowing students to leave your classes without an educational need or simply ditch school altogether and your complete disregard of the educational needs of your students...As such, you do not have the turpitude to be suitable for employment in a public school in any capacity.

(*Id.*, emphases added and Policy citations omitted.)

13. Mr. Masonjones appealed the Notice of Intent to Discharge to the GMCS Board of Education, which held evidentiary hearings on the matter on May 19 and June 18, 2025. *See* Masonjones YouTube recordings located at <https://www.youtube.com/live/ZzgNh0Ekd70> (5/19/25) and <https://www.youtube.com/live/y8AxSMXDX8U> (6/18/25) (last accessed 9/26/25). There, as noted, the School Board was represented by legal counsel Andrew Sanchez, Esq. of Himes Petrarca, to whom the Board delegated its Hearing Examiner functions of managing the hearing and ruling on objections.
14. The School Board personnel hearing resulted in approximately 14 hours of video-recorded testimony and proceedings, including lunch and rest breaks and sidebars, and approximately three and one-half (3.5) hours of testimony from Mr. Masonjones. Prior to the personnel hearing before the Board of Education, the litigants propounded discovery and exchanged documentary evidence. At the personnel hearing, all testimony was taken under oath or affirmation, the litigants were allowed opening statements and closing arguments; objections were raised and resolved on the record; and the School Board deliberated in executive session after being instructed by its Counsel and the designated Hearing Examiner, Mr. Sanchez. (Oct. Order and Appendix.)
15. Mr. Masonjones was represented by the same counsel before the School Board as represents the Union here. Before the School Board, Mr. Masonjones' evidence focused on factors of mitigation, rehabilitative potential, and pleas for mercy based on his status as President, his

prior good work performance and rehabilitative potential.⁵ That evidence or argument was obviously rejected by the Board in sustaining the Superintendent's termination recommendation for misconduct and, as noted, the School Board's determination of misconduct has been adopted by the undersigned. (Oct. Order and Appendix.)

16. The issue of retaliation was also raised several times in the Board of Education's hearing, including by Mr. Masonjones himself, so it was not clear what additional evidence was available to present. (*See* Oct. Order, ¶¶ 21-25 regarding references of retaliation to the School Board; *see also* Day 1 recording at 8:37-8:43; Day 2 recording at 3:05-4:15, 6:36:38-6:37:50, and 7:09:01-7:10:40; and October Appendix.)

17. The following eight (8) witnesses testified under oath or affirmation, over the course of the two-day GMCS/Masonjones personnel hearing:

- (1) GMCS Superintendent Mike Hyatt;
- (2) Assistant Superintendent K'Dawn Montaña;
- (3) District Investigator Darren Soland;
- (4) Director of College, Career and Civic Readiness (CCCR) Jack McFarland;
- (5) District College and Career Counselor Jonathan Gutierrez;
- (6) Javier Lopez, a Miyamura HS Social Studies Teacher;
- (7) Valerie Scott, a MHS Science Teacher; and
- (8) Sawyer Masonjones, Complainant/Employee.

(Oct. Order, Appendix.)

18. The School District submitted approximately twenty-four (24) exhibits at the GMCS/Masonjones personnel hearing, the following of which were specifically discussed, and support the Board's ultimate determination⁶

- a. Notice of Intent to Discharge (Dist. Ex. 1);
- b. Administrative Leave With Pay letter (Dist. Ex. 2);
- c. Soland Investigative Report – Summary (Dist. Ex. 3);
- d. Soland Supplemental Report (Dist. Ex. 4);
- e. Soland's and Montaña's handwritten notes from the student interviews (Dist. Exs. 5A and 5B, respectively);
- f. Emails (Dist Ex. 6);

⁵ For example, in his final minutes of testimony to the School Board, he said to the Board, "Guys, I'm the Union President"; "just being a support teacher isn't my game, so put me in teaching biology...with weekly labs" like those "that impressed Ms. Scott"; and "give me a chance and I will show how good of a teacher I am".

⁶ Some but not all of these exhibits were admitted into the record for the instant PPC, by attachment to the preclusion/estoppel related pleadings, although under different alpha or numeric characters. The numbers used herein are from the GMCS Board of Education personnel proceedings unless specifically noted otherwise.

- g. School Expectations for Dual-Credit Health Pathway Teacher (Dist. Ex. 7);
 - h. First LOR dated 1/22/25 (Dist. Ex. 8);
 - i. Emails between Miyamura Principal Garro and Masonjones (Dist. Ex. 9);
 - j. Email from Masonjones to all Union members and other school personnel, including Superintendent Hyatt (Dist. Ex. 10);
 - k. Acknowledgement of On-boarding packet (Dist. Ex. 17);
 - l. Training – Early Warning System Protocols (Dist. Ex. 18);
 - m. Refresher Training (Dist. Ex. 19);
 - n. Miyamura High School Staff Handbook (Dist. Ex. 20);
 - o. Email from Masonjones to all Union members, dated 1/8/25 (Dist. Ex. 30 and/or 31);
 - p. Email from Masonjones dated 1/16/25, regarding Union members’ telephone numbers and addresses (Dist. Ex. 32); and
 - q. Email dated 12/3/25 (Dist. Ex. 33).⁷
- (Oct. Order, Appendix.)

19. The Union stipulated to all of the District’s Exhibits except 8, 11 and 12. (Day 1, 4:46-4:51.)

20. The Union submitted or offered eight (8) other exhibits according to its Witness and Exhibit List, the following of which were specifically discussed at the hearing:

- (1) Prior Teacher Observations of or “walkthroughs” for Masonjones (Un. Exs. 2 and/or 3);
 - (2) Emails (Un. Ex. 6); and
 - (3) Masonjones “Domain” Lesson plan, Nov. 2024 (Un. Ex. 7).⁸
- (Oct. Order, Appendix.)

⁷ Other District exhibits that were offered and/or admitted included the following:

- 1. January 28, 2025 Grievance filed by Sawyer Masonjones, GMCS 0340 (Dist. Ex. 11);
- 2. March 3, 2025 Level 2 Grievance Response, GMCS 0341 (Dist. Ex. 12);
- 3. February 6, 2025 Gutierrez Email to Soland, GMCS 0241 (Dist. Ex. 13);
- 4. February 6, 2025 Zamora email to Soland, GMCS 0242 (Dist. Ex. 14);
- 5. Tony Morales statement to Soland, GMCS 0244 (Dist. Ex. 15);
- 6. February 6, 2025 Dario Madrid statement to Soland, GMCS 0245 (Dist. Ex. 16);
- 7. Board of Education Policy G-0650 – GBEA Staff Ethics (Dist. Ex. 21);
- 8. Board of Education Policy G-0750 – GBEB Staff Conduct-Standards of Professional Conduct (Dist. Ex. 22);
- 9. §§ 6.60.9.8(A)(1); 6.60.9.8(B)(1) and (2); 6.60.9.8(C)(1), (2), (8) and (10); and 6.60.9.8(D)(4) NMAC Code of Ethics (Dist. Ex. 23); and
- 10. 24. §§ 6.60.9.9(A)(2) and (3); 6.60.9.9(B)(7); and 6.60.9.9(C)(9), (13), (14), (20) and (23) NMAC Standards of Professional Conduct: Standard I Duty to the Profession (Dist. Ex. 24).

⁸ Other exhibits offered and/or admitted by the Employee included the following:

- 1. FYEX and HLED Student Evaluations of Dual Credit class (Un. Ex. 5);
- 2. Dual Classroom Teams messages, posts and files from Masonjones to students (Un. Ex. 8);
- 3. Senior Project Prompt, Dual Credit Class (Un. Ex. 9); and
- 4. Senior Project Prompt, Credit Recovery Class (Un. Ex. 10).

21. On June 18, 2025, after the close of the second day of hearing and about 22-23 minutes of deliberations, the School Board determined that good cause existed to discharge Sawyer Masonjones, stating in the entirety as follows:

This matter, having been heard by the Board of Education at a duly called special meeting of the Board of Education May 19, 2025 and continued on June 18, 2025, and both sides having had a full and fair opportunity to present evidence on the issue, the Board of Education hereby finds and decides that good cause exists to discharge Sawyer Masonjones from his employment with Gallup-McKinley County Schools, and that Mr. Sawyer Masonjones is hereby discharged. Should Mr. Sawyer Masonjones believe that he has been aggrieved by this decision, he may request independent arbitration as permitted by N.M. Stat. Ann. § 22-1 OA-28 (2019).

(Dist. Motion, Ex. G, emphasis added.)

22. The Union indicated in its Sur-Reply to the District’s 2025 Motion to Dismiss that Mr. Masonjones has invoked his right to appeal the Board of Education’s decision to arbitration, as permitted by NMSA § 22-10A-25(A). (*Id.* at 6.)

The Existing School Board Record and Additional Evidence Proffered

23. The evidence of misconduct against Mr. Masonjones before the School Board was very robust and fulsome, and it supported most of the serious charges. Specifically, the School Board hearing established unequivocally by Mr. Masonjones’ own admissions that he failed to track attendance; knowingly allowed his students to go truant while in his custody and control at the College campus; and failed to track their progress in the College courses, or provide and require them to complete sufficient supplemental assignments and learning necessary to succeed in the College course, as well as avoiding being idle. Moreover, Mr. Masonjones was silent about many issues requiring a response, such as whether he slept under his desk, kept classroom lights off with little or no noise or activity allowed, or instructed his students to pretend to be busy when Administrators or other Teachers entered the room. His primary response was that the student witnesses were cherry-picked because the District only asked ten (10) students who did not like him because he assigned “extra work” (he testified to providing only three supplemental assignments in that first 2024/2025 semester), and the District blew things out of proportion. (Appendix B herein, Summary of Evidence of Misconduct by Mr. Masonjones; and Appendix C herein, Summary of Mr. Masonjones’ Offered Defenses or Factors of Mitigation; *see also* October Appendix and School Board recordings.)

24. Before the School Board, Union Counsel and Mr. Masonjones mostly did not challenge the specific charges and evidence of misconduct except to testify, argue or suggest that: the Dual Credit classes were a difficult assignment for him because they not well planned or configured by the District; the students were not good candidates and did not want to be there; he suffers from attention deficit/hyperactivity disorder (ADHD), which he believes manifests in him as “time blindness”; he suffers from asthma and a bad back, and was ill with COVID and unable to stand for extended periods towards the end of the first semester of the 2024/2025; by the end of the first semester, he had recognized the lack of adequate instruction, guidance and engagement in his classes and had prepared a plan to address the challenges and errors of the first semester; he was a good teacher and could prove himself; and this was a correctable performance issue, not misconduct, much less misconduct warranting termination. As noted above, these are all claims for mitigation or “mercy”, and appeals to his rehabilitative potential. These factors are applicable in a just cause analysis but not relevant to the “but for” *Wright Line* analysis. Additionally, his defenses before the School Board were also internally and externally inconsistent, and/or frankly implausible given the entirety of the School Board record. (See Appendices B and C.)

25. Now, before the PELRB, the Union has made the following evidentiary proffers, with the following results up to this point in the proceedings:

(1) PRIOR EVALUATIONS. The District’s “superior copies” of Mr. Masonjones’ prior evaluations, because they “include foundational evidence such as dates” (see First Masonjones Aff., ¶ 4). The undersigned initially allowed receipt of the prior years’ evaluations. The PELRB has an informal copy submitted by the Union that the undersigned has reviewed, in the context of the existing record and the current procedural posture. Because these have been previously admitted or allowed, this evidence is discussed in the following section.

(2) CLASS BELL SCHEDULE. The class and bell schedule for the 2024-2025 school year and emails with the Miyamura administration regarding the master schedule (*Id.* at ¶ 5, 7). In his First Affidavit, Mr. Masonjones did not provide a relevance basis, and the undersigned instructed him to provide a “concise but specific explanation for the relevant/intended use”, “[f]or instance”, if it was offered “to disprove or rebut the District’s allegations of neglect of student and teacher duties by sending Union-related

emails during contact/duty time”. To this, Mr. Masonjones responded vaguely in his next affidavit that he “wished to submit the evidence....to address concerns raised regarding conducting Union activity during student instructional time.” (Second Masonjones Aff., ¶ 4.) This is non-responsive to the undersigned’s request for clarification, and she therefore rejects the proffer as inadequate, because it appears to be in the nature of additional mitigation evidence, and is not shown to be material to the questions of pretext or retaliation. She also notes that the Union had the opportunity to cross-examine the witnesses about these documents at the School Board hearing and either declined to do so or failed to successfully impeach the evidence admitted. (Oct. Order, Appendix; *see also* Note 14, *infra*.)

- (3) UNEMPLOYMENT INSURANCE. Mr. Masonjones’ Unemployment insurance determination letter, which presumably awards him benefits upon a determination that he was entitled to them under the standards of that statute, and which was not provided by the Union (First Masonjones Aff., ¶ 6). The undersigned initially stated this evidence would be received into evidence, and she did so simply because she had received the School’s Board’s Order upholding the Notice of Intent to Terminate, over Union objection. Because it has been admitted or allowed, this evidence is discussed in the following section.
- (4) 2024 CLASSROOM CHANGE GRIEVANCE: Masonjones’ Grievance filed on or about September 2024 regarding a change of his classroom without notice. (First Masonjones Aff., at ¶ 8). Again, the undersigned initially stated this evidence would be received, although it was proffered without any explanation of its materiality to an issue in genuine dispute. In retrospect, it was not in fact shown to be material but, because the document has been admitted or allowed, it is discussed in the following section.
- (5) SPREADSHEET OF PLANNED INSTRUCTION CHANGES: Masonjones’ self-created spreadsheet that describes the changes he wanted to make to improve the class experience for students in the second semester of the 2024/2025 school year (*Id.* at ¶ 9). For this one, the undersigned again asked for “concise but specific explanation for the relevant/intended use” (H.E. email date 10/21/25) and he responded by representing that “the purpose of the spreadsheet is to show the efforts Mr. Masonjones went through

in an attempt to support his students and supports the testimony he gave at the schoolboard hearing.” (Second Masonjones Aff., ¶ 5.) The undersigned rejects this proffer as inadequate. First, the evidence is not material to retaliation or any other fact or issue in genuine dispute, since it concerns proposed, after-the-fact conduct or performance corrections. Second, Mr. Mason was allowed to testify about this before the School Board, and his testimony on this non-material point is credited by the undersigned entirely, so the evidence would be cumulative. (Oct. Appendix.)

- (6) EMAILS REGARDING RECOMMENDATIONS FOR HEALTH PATHWAY LEAD: Emails with Nick Garro and Deb Author “regarding recommendations for the health pathway lead – the District has possession of these emails” (First Masonjones Aff., at ¶ 10). In response, the undersigned directed the Union to provide a “concise but specific explanation for relevance/intended use”, and she noted a lack of relevance if offered simply to show that Mr. Masonjones or another was recommended for the position. (H.E. email dated 10/21/25.) In further response, Mr. Masonjones averred in essence that Mr. Masonjones was recommended for this position, which is not the position he held, and that the District made a poor decision in not assigning Mr. Masonjones this position and instead assigning it to another person who was also assigned the Department Head position simultaneously. Mr. Masonjones also opined vaguely without explanation or rationale that, “[t]his [evidence] further supports the animosity and retaliation toward Mr. Masonjones.” (Second Masonjones Aff., ¶ 6.) The undersigned initially allowed the evidence subject to District’s rebuttal regarding admissibility, while noting it appeared to be of weak relevance. Because it has been conditionally allowed or admitted, this evidence is discussed in the following section.
- (7) UNION MEMBER EMAIL ABOUT ANIMUS/RETALIATION: An “email from a MCFUSE member addressing anti-union animus and retaliation concerns from the District” (First Masonjones Aff., at ¶ 11.) In response, the undersigned directed the Union to provide the date of the email and a “concise but specific explanation of the statements or actions alleged therein that the Union member believed constituted or indicated anti-union animus and/or retaliation.” (H.E. email dated 10/21/25.) In further response, Mr. Masonjones averred that “[t]he member’s email addresses concerns that the current Union President is no longer an employee of the District” and

“[a]sk[s] if [a] new [] President is elected will they also be fired, and ... if other past Presidents were fired” because there were “[r]umors being spread regarding false allegations made against the Union President.” (Second Masonjones Aff., ¶ 7.) The undersigned rejected the evidence as irrelevant as proffered. The undersigned adds here that on its face the evidence shows only that there was a rumor and/or fear of retaliation motivated by Union-animus, which is not competent or material evidence under a *Wright Line* “but for” analysis.

- (8) SUPERVISOR TESTIMONY: Testimony from Mr. Masonjones’ direct supervisor, then-Miyamura Principal Nick Garro (First Masonjones Aff., at ¶ 13). As noted, the undersigned previously stated this evidence would be received, so it is also discussed in the following section.
- (9) CO-WORKER SCOTT TESTIMONY: Additional testimony from Mr. Masonjones’ co-worker Valarie Scott, regarding “events and observations from previous years” (First Masonjones Aff., at ¶ 14). In response to this proffer, the undersigned directed the Union to “provide a concise but specific description of the testimony desired from Ms. Scott regarding the 2022-2023 and 2023-2024 school years” given that “Ms. Scott did testify about her observations and opinions of Mr. Masonjones’ work performance in prior years”. The undersigned added that “[b]ecause the undersigned takes administrative notice of her prior testimony, additional testimony from her on that subject appears potentially cumulative.” (*Id.*) Mr. Masonjones replied in return that “Ms. Scott will be able to expand on her testimony regarding her observations in previous years, along with her observations of Ms. Masonjones attempting to address concerns he was having with his students and the dual credit course.” (Second Masonjones Aff., ¶ 8.) The undersigned thereupon excluded any additional testimony, finding it was

cumulative as to Mr. Masonjones’ work performance before the year at issue; and ... cumulative and/or irrelevant as to his efforts to address concerns he was having with his students and the dual credit course, since ... the undersigned will be giving full weight to Mr. Masonjones’ testimony that did not deny the alleged misconduct but added explanations or justifications related to his general job performance.

(H.E. email dated 10/31/25, emphasis added.)

(10) UNION VP TESTIMONY: Testimony from Union Vice President Graham McNeil regarding “Union activity and retaliation” (First Masonjones Aff., at ¶ 15). In response to this proffer, the undersigned directed the Union to “provide a concise but specific description of the retaliatory statements or actions about which Mr. McNeil would testify if called”. (H.E. email dated 10/21/25.) The undersigned added that the “[t]erm ‘retaliatory’ is too conclusory to make a determination on the evidence’s relevance and non-cumulative nature.” (*Id.*) Mr. Masonjones replied that “... McNeil can speak to previous retaliation he has observed and the history of retaliation against the Union by the District.” (Second Masonjones Aff., ¶ 9.) The undersigned thereupon excluded any additional testimony, finding as follows:

The relevance of VP Neil’s testimony about “previous retaliation” or “a history of retaliation against the Union by the District” cannot be ascertained because the description is vague as to time-frame, no specifics are provided as to the acts or statements alleged to constitute retaliation, and their nexus to Mr. Masonjones’ termination was not proffered; as such, that evidence shall be excluded.

(H.E. email dated 10/31/25.)

(11) CO-WORKER JACOBY TESTIMONY: Testimony from Mr. Masonjones’ co-worker Kierston Jacoby, “to discuss the dual credit course and transfer rate” (First Masonjones Aff., at ¶ 16). In response to this proffer, the undersigned directed the Union to “provide...a concise but specific explanation for the relevance/intended use of testimony from Ms. Jacoby regarding “the dual credit course and transfer rate”. The undersigned added that “Mr. Masonjones and members of District Administration testified about: the dual credit course’s structure and challenges, including its high fail and/or transfer rates, and Masonjones’ and others teachers’ disagreement with its structure; Jacoby’s lack of similar problems as Mr. Masonjones; and her greater years’ experience”, and that therefore “[a]dditional testimony from her on these areas appears potentially cumulative.” (H.E. email dated 10/21/25.) Mr. Masonjones replied that “Ms. Jacoby, as the other Dual Credit Course teacher, can speak to number of students who were removed from the course at the mid-year mark and clarify argument given at the School Board Hearing regarding the students in her course.” The undersigned thereupon excluded additional testimony from Ms. Jacoby as irrelevant,

because removal of students from Mr. Masonjones' dual credit course was not a cited grounds for termination, or otherwise purported to be relied upon by the District in making its decision to terminate Mr. Masonjones for the charged misconduct.”

(H.E. email dated 10/31/25.) The undersigned also adds here that the high dropout rate is neither material to PEBA-based retaliation/interference or a fact in dispute.

26. Thus, of the 11 items of evidence for which the Union sought admission, none were rejected upon consideration of the first request or Affidavit, and six (6) items were rejected upon consideration of the second request or Affidavit. The remaining five (5) proffers, which have been received, accepted or tentatively accepted up to this point, are ultimately also found to be immaterial and/or cumulative upon consideration of the whole record, the present procedural posture, Mr. Masonjones' Affidavits, and the Parties' respective arguments, as addressed next.

Undisputed Facts Related to the Proffers of Pretext and/or Retaliation

27. As determined in the October Order and discussed above, the Union presents a *prima facie* case of retaliatory investigation and discipline, because it makes a showing there was (a) union activity, (b) knowledge of such union activity, and (c) animus against the union. *See Carpenters Health & Welfare Fund*, 327 NLRB 262, 265 (1998); Order at 32-33.
28. As determined in the October Order, the School Board record does not establish all the charged misconduct as a matter of fact and/or law, but the District established and the Union failed to rebut or challenge the legitimacy of most of the charges against Mr. Masonjones, which are well-supported by the record made before the School Board. As such, that misconduct is established as a legitimate business justification for Mr. Masonjones' termination under a *Wright Line* analysis, subject to rebuttal by the Union that the misconduct was in fact pretextual and the District would not have terminated Mr. Masonjones “but for” his protected activity or status. (Order at 33-34.)
29. Upon consideration of the entire record, including the pending arguments, the undersigned rejects the Union's remaining proffers in support its claims that the offered reason was pretextual and that Mr. Masonjones would not, despite the identified and established misconduct, have been terminated “but for” his role or activities related to the Union. Based on the existing recording, the undersigned finds that the Union's remaining proffers of additional evidence are not adequate, whether taken individually or together, to demonstrate

the existence of issues of material fact that are in genuine dispute and could be proven by available and/or proffered evidence.

30. Beginning with proffer that Mr. Masonjones had a good work record before he became involved with the Union and/or filed a grievance or became the Acting President and then President of Local 3313 AFT-NM or MCFUSE, the undersigned finds as follows based upon the adopted and undisputed School Board record. At the time of events at issue here, the 2024/2025 school year, Mr. Masonjones was in his third year of teaching at the Miyamura High School in the Gallup McKinley County Schools (GMCS) system. He taught math in his first year, science in his second year, and Dual Credit/Credit Recovery in his third and final year. He had no prior discipline in his record and he had been generally well rated, before his third year. The assignment change to Dual Credit in school year 2024/2025 was significant and challenging, as he was teaching two Dual Credit classes (Freshman Experience and Health Pathways) for the first year of GMCS's new Dual Credit program⁹, and one Recovery Credit class. This meant that he was responsible for two different groups while on campus which, as he testified, made it especially difficult once his students began to ditch the college class also. He was also not pleased with the Dual Credit program's structure and did not want to teach the course; and he argued with Administration and the College professors during the first part of the 2024/2025 school year about that. The misconduct his termination was based on also occurred during this time. He became Acting President in late January 2025 and President in February. (Oct. Appendix, and Appendices B-C, herein.)

31. The proffer of the prior years' evaluations was ultimately shown to be inadequate because no genuine question of material fact is implicated. The Union has submitted undated copies from Mr. Masonjones which lack dates, and it seeks the School's official copies, arguing that the dates are "foundational". However, it is not apparent how the dates from prior years' copies would be "foundational" given that the Union labeled the year of the evaluation copies it has submitted to the PELRB, and neither the dates nor the undated copies are not in dispute. More fundamentally, Mr. Masonjones' prior work performance was not a material issue in dispute,

⁹ Although this was the District's first year with Dual Credit, it was modeled after the District's 7- or 10-year STEM program with NTU or NU. (Oct. Appendix and Recordings, CCR Director McFarland, School Board testimony.) However, the prior similar program was limited to Students with a 4.0 average, and that requirement was done away with in the 2023/2024 program.

because it is undisputed that he was a well rated teacher before the 2024/2025 school year.¹⁰ Additionally, good prior performance does not excuse misconduct, although it may mitigate the gravity and thus the ultimate penalty selection. Nonetheless, the evaluations – which are rather generic – are summarized as follows, with more detail in Appendix A, herein:

(1) In Mr. Masonjone’s 2022/2023, 2023/2024, and 2024/2025 evaluations, Debra Arthur assessed him as being either “Innovating” or “Applying”, the two highest possible ratings.¹¹

(2) In his 2022/2023, 2023/2024, and 2024/2025 evaluations, under “Learning Outcome” 2A, “Creating an Environment of Respect and Rapport”, he was assessed as follows:

INNOVATING Exhibits a high degree of respect. Reflects warmth and caring. Reflects a high degree of sensitivity to students’ cultures that

¹⁰ The undersigned does observe, however, that there is also ample evidence that his performance ratings had begun to modestly slip in the last year, corresponding simultaneously to the increasing difficulties between him and Administration about the Dual Credit program and his role in it, and Mr. Masonjones beginning to neglect his instructional and student-related duties. *See Oct. Appendix.*

¹¹ “Innovating” means the employee:

- Seizes opportunities to enhance learning by building on a spontaneous event or student interests.
- Creates opportunities for student-led instruction, discussion, and/or questioning.
- Appeals to student interests and makes cultural and linguistic connections to learning goals.
- Ensures the success of all students by using an extensive repertoire of instructional strategies in order to anchor instruction and help students make sense of content.

“Applying” means the employee:

- Modifies instruction according to applicable IEPs.
- Adjusts instructional plans and makes accommodations for student questions, needs, and interests, while taking into account the language demands and grade-level appropriateness of the content and instruction.
- Adapts instructional plans by employing a variety of strategies and techniques that are responsive to students’ needs, proficiency, culture, and linguistic background.
- Revises the lesson based on periodic checks for understanding and/or formative assessments of all students.

“Developing” means the employee:

- Attempts to modify the lesson, responds to student questions with moderate success, but has a limited repertoire of strategies to draw upon.
- Accepts minimal responsibility for student success.
- Occasionally uses strategies to support diverse learners.

“Not Demonstrating” means the employee:

- Makes no attempt to adjust the lesson in response to student confusion.
- Does not accept responsibility for the lack of student success.
- Does not attempt to clarify information for students and does not successfully answer student questions.
- Does not use strategies to support diverse learners.

may include purposeful teacher-student or student-student dialogue in multiple languages. □ Reflects a high degree of sensitivity to students' levels of development.

(3) In all three school years (2022/2023, 2023/2024 and 2024/2025), he was assessed as “Applying” under Learning Outcome 2D, “Managing Student Behavior”, which entails the following:

□ Evidence of a student behavior management plan with students' knowledge of their roles. □ An atmosphere conducive to learning with a focus on student self-discipline, respect for the rights of others, and cooperation. □ Communication and modeling of said expectations for all students. □ Responses to student behavior are consistent, respect student's dignity, sensitive to cultural and linguistic differences, and are in accordance with the student's FBA/BIP strategies, when applicable.

(4) In his 2022/2023 evaluation, Mr. Masonjones was also assessed as “Innovating” under Learning Outcomes 2B, “Creating a Safe Learning Environment with Routines and Procedures”; 3A, “Communicating with Students in a Manner that is Appropriate to their Culture, Language, and Level of Development”; 3D, “Assessment in Instruction”; 3E, “Demonstrating Flexibility and Responsiveness”; 1A, “Demonstrating Knowledge of Content”; 1B, “Demonstrating Knowledge of Students”; 1D, “Demonstrating Knowledge of Resources”; 1E, “Designing Coherent Instruction”; 4B, “Participating in a Professional Learning Community”.

(5) In his 2023/2024 evaluation, Mr. Masonjones was assessed as “Innovating” again under Learning Outcomes 2A, 2B, 3A,1B, 1D, 1E, and 4B; and he was also rated “Innovative” that year under four (4) new Learning Outcomes: 2C, “Establishing a Culture for Learning”; 3C, “Engaging Students in Learning”; 1C, “Setting Instructional Outcomes and Designing Student Assessment”; and 4E, “Growing and Developing Professionally”.

(6) His mid-year 2024/2025 evaluation marks a modest fall-off or decline in his performance assessment. There, Mr. Masonjones was assessed as “Innovating” again only under Learning Outcomes 2A, 1B, 1D; and he was not rated “Innovative” that year under any new Learning Outcomes. However, he continued to rate as “Applying”, the second highest rating, under all other learning outcome categories.

(See Appendix A, herein, for explanatory notes on the meaning of ratings.)

32. Similarly, it was undisputed under the School Board record that there were structural challenges to teaching the Dual Credit course in its first year, and personal and professional challenges, issues and problems that confronted Mr. Masonjones as the instructor. Although all of Mr. Masonjones' excuses, justifications or offerings of mitigation are considered and credited by the undersigned, they do not create genuine issues of material doubt.¹²
33. Next, upon review of the entire record and pending pleadings, the undersigned also finds the September 2024 Classroom Grievance proffered by Mr. Masonjones would also not create a genuine issue of material doubt. Notably, the factual claim was only recently raised and not in the PPC or the Amended PPC. Additionally, there is no claim or proffer as to whether admission of this was sought in the original School Board hearing. There is also no proffer of nexus between this action and Mr. Masonjones' Union-related activities, since he did not become Acting President until January 2025.
34. Next, the undersigned finds that Mr. Masonjones' proffered Unemployment Insurance determination does not create a genuine issue of material doubt either, upon review of the entire record and pending pleadings, Specifically, the Affidavits and Claimant's Response to the District's Response (or motion for summary judgment) do not show this evidence is material to the issue of retaliation under the PEBA or the legitimacy of termination under *Wright Line*. The undersigned takes administrative notice that under NMSA § 51-1-3 ("Declaration of state public policy"), unemployment insurance benefits are intended "for the benefit of persons unemployed through no fault of their own", which might seem to speak to the issues raised by this PPC. However, the Union was not entitled to rest on supposition or conclusory allegations of the PPC, at this point in the proceedings. Rather, the onus was on the Union to "specifically" proffer how this evidence was relevant to the issues of pretext and/or retaliation under PEBA and *Wright Line*.
35. Similarly, upon review of the entire record and pending pleadings, the undersigned finds the proffered emails regarding the Health Pathway Lead also do not create a genuine issue of material doubt. As noted in her October 31, 2025 email, this evidence "does not, under the

¹² The undersigned also observes that, over an objection to additional School Board testimony from Ms. Scott about Mr. Masonjones' prior years' performance and present years' struggles, the Employee expressed satisfaction that the Board had received his testimony about Mr. Masonjones' work performance in the prior years and alleged lack of teacher support from the District. (Oct. Order, Appendix at 25, and School Board recordings)

existing record” (or the proffered and accepted record) “lend any particular support to a claim that the District terminated [Mr. Masonjones] because of his Union involvement.” (*Id.*)

36. Next, upon review of the entire record and pending pleadings, the undersigned finds the proffered testimonial evidence from Mr. Masonjones’ supervisor, Principal Nick Garro, also does not create a genuine issue of material doubt. Initially, the undersigned allowed its admission despite the failure of the Union to identify any particular purpose, intent or nexus of the proffered testimony, because a supervisor’s testimony and/or evidence of general work performance may offer circumstantial evidence of an employee’s defenses or claims of mitigation. However, upon further consideration in light of the entire record and the pending pleadings, the proffer is found to inadequate for several reasons. First, Mr. Masonjones was more directly overseen by Ms. Montoya, who was not called to testify but who reported in the investigation that she received 60+ complaints from Mr. Masonjones’ students about not getting help or instruction from Mr. Masonjones. Second, the Union failed to explain or describe its efforts to enter Mr. Garro’s testimony into evidence before the School Board; and the undersigned rejects as inadequate the Union’s single conclusory statement in its Response that it “has made abundantly clear throughout these proceedings that the reason this evidence was not presented at the School Board[] Hearing was because the School Board barred the Union from presenting this evidence.” (Union Resp. at 5.) Whether this and other evidence was barred from or not considered by the School Board has been a contested fact throughout the PELRB proceedings, which is why some kind of explanation regarding admission effort and outcome was required under the undersigned’s October Order. (October Order at p. 35.) Third, if Mr. Garro were to testify about Mr. Masonjones’ good work record before January 2025, it would not have been shown to be material and it would be cumulative. Lastly, Mr. Masonjones’ case before the School Board only referenced Mr. Garro – who was not called to testify but could presumably have been – in terms of Mr. Masonjones complaining about a lack of teacher support from the District in general; and in terms of Mr. Masonjones’ generally favorable 2023/2024 mid-term evaluation. Lack of support, however, is not relevant to the question of misconduct (although it may have been relevant to the separate and distinct question of just cause); and the undersigned has already credited Mr. Masonjones prior favorable work record but finds to be immaterial.

37. Lastly, because no additional material facts, evidence, or witnesses with relevant personal knowledge are identified to show either pretext of discipline under *Wright Line* or retaliation under the PEBA, the undersigned find that this matter is ripe for judgment as a matter of law based on the existing evidentiary record and pleadings.

SUMMARY OF THE PARTIES' POSITIONS

The District quotes extensively and accurately from the undersigned's October Order to argue that the Union's proffers of evidence and Mr. Masonjones' Affidavits are insufficient. It also cites ample case law supporting its arguments for dismissal of the PPC based upon the lack of material evidence proffered concerning pretext or actual retaliation. (*Id.* at 5-7.)

First, the District argues, the Union's proffers fail to meet the terms of the October Order; and, second, they fail to create a dispute of material fact for the PELRB to resolve, including retaliation or pretext under the *Wright Line* test.

The District emphasizes that "[t]he PELRB has already determined that the discharge hearing established that the School District presented a legitimate nonretaliatory reason to discharge Mr. Masonjones from his employment". It also argues that,

the PELRB allowed the Union ("Complainant") multiple opportunities to proffer evidence that the reason for discharge was merely pretext to hide anti-union animus and retaliation. However, the proffered evidence submitted in the form of two (2) affidavits from Mr. Masonjones are merely self-serving and fail to address the evidence the PELRB requested.

(Dist. Motion at 1.) It argues that both of Mr. Masonjones' affidavits are "equally insufficient, unresponsive and self-serving" and conclusory. It further argues that,

Claimant failed to provide an affidavit from Mr. Garro despite his testimony being allowed by the PELRB on October 21, 2025. In fact, Claimant fails to offer any other supporting affidavits, including from any "person functionally responsible for establishing an adequate foundation for the admission of any of the documents offered by Claimant." More importantly, neither one of Mr. Masonjones' affidavits addressed or attempted to rebut the fact that during his testimony at the Board of Education's hearing, Mr. Masonjones did not deny the alleged misconduct. Additionally, the unemployment determination was also allowed on October 21, 2025 by the PELRB and not provided by Complainant.

(*Id.* at 5.)

The Union's responsive pleading defends the sufficiency of its proffers and Mr. Masonjones' Affidavits in a conclusory fashion. In particular, although notified that the undersigned was treating the District's Response as a Motion for Summary Judgment, the Union does not either supplement its Response with additional and/or conforming affidavits; or cite the legal standards for either summary judgment or establishing pretext or retaliation under *Wright Line*.

The Union argues, first, that its proffers are sufficient because the Affidavits were "completed by Sawyer Masonjones and he is the appropriate individual with personal knowledge". (Union Resp. at 2-3.) It also emphasizes the evidence the undersigned has already agreed or tentatively agreed to accept, and argues "there was no further action to take on the evidence that was accepted by the PELRB." (*Id.* at 2-3.) It adds that Ms. Scott would testify about "retaliation and the shift in treatment of Mr. Masonjones from previous years", and that testimony from former President McNeil and co-worker Ms. Jacoby would "provide additional background on the dual credit course." (*Id.* at 2-3.)

Second, the Union asserts that the District has mischaracterized the October Order, while also emphasizing that it was the only one required to submit affidavits. (*Id.* at 3-4.) For instance, it argues that it was not yet required under the October Order to provide the unemployment insurance determination letter, or to provide affidavits from the proffered witness.

Third, it argues that Mr. Masonjones' failure to deny the proven and established wrongdoing is irrelevant because the only question that remains is that of "union retaliation". (*Id.* at 5.)

Lastly, it argues that it did not need to submit any affidavits regarding the alleged attempts to introduce the evidence before the School Board because it "has made abundantly clear throughout these proceedings that the reason this evidence was not presented at the School Board[] Hearing was because the School Board barred the Union from presenting this evidence." (*Id.*)¹³

¹³ As found above, the undersigned has already rejected the sufficiency of that response as contrary to her October Order.

ANALYSIS AND CONCLUSIONS

As noted under the Legal Standards section above, summary judgment shall be granted when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *See* NMRA Rule 1-056 and PELRB precedent, and *AFSCME Council 18 v. New Mexico Department of Labor*, 01-PELRB 2007 (Oct. 15, 2007). Additionally, the undersigned may not weigh evidence on disputed questions of fact, and must view the pleadings and all proffered evidence in the light most favorable to allowing a hearing on the merits. *Brazell; Hubbard; Keith; Las Cruces Country Club, supra*.

Nonetheless, she is not therefore required to consider irrelevant or immaterial evidence, or conclusory claims unwedded from evidence. *See, e.g., Goffe; Stake; Jelso; and Agnew, supra; see also* NMSA § 10-7E-2 (stating, as one of the PEBA's express purposes, the need to "ensur[e]...the orderly operation and functioning of the state and its political subdivisions").

In this case, as discussed and found above, the undersigned has already determined in her October Order that the Union met its prima facie burden; and that the District has met its rebuttal obligation to show a legitimate justification from Mr. Masonjones' termination. *See, e.g., Frisella v. Deuster Elec., Inc.*, 269 S.W.3d 895, 900 (Mo. Ct. App. 2008) (that in order to prove misconduct, an employer must show the employee willfully violated the employer's rules or standards); *Ingels v. Thiokol Corp.*, 42 F.3d 616, 622 (10th Cir. 1994) (that when the employer offers a nonretaliatory reason, the burden shifts back to the employee to show there is a genuine dispute of material fact as to whether the employer's reason for the challenged action is pretextual and unworthy of belief).

Thus – as found and discussed above and acknowledged by the Complaint in their Brief – the only question remaining is whether the proffered justification for termination (Mr. Masonjones' various types and incidents of serious misconduct) was in reality pretextual, meaning that the District would not have terminated Mr. Masonjones "but for" his Union activities.

As observed under Relevant Legal Standards, to show pretext, Claimant must produce evidence of "such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its action that a reasonable fact-finder could rationally find them unworthy of credence and hence infer that the employer did not act for the asserted non[retaliatory] reasons." *See, e.g., Argo v. Blue Cross & Blue Shield of Kan., Inc.*, 452 F.3d 1193, 1203 (10th Cir. 2006), quoting *Morgan v. Hilti, Inc.*, 108 F.3d 1319, 1323 (10th Cir.

1997) (quoting *Olson v. Gen. Elec. Astrospace*, 101 F.3d 947, 951-52 (3rd Cir. 1996)). As the District observes, a reason is not a “‘pretext for [retaliation]’ unless it is shown both that the reason was false, and that discrimination was the real reason.” *St. Mary’s Honor Ctr. v. Hicks*, 509 U.S. 502, 515, (1993). Accordingly, the employer is entitled to a judgment if the employee “could not offer evidence tending to show the defendant’s innocent explanation for his employment decision was false.” *Randle v. City of Aurora*, 69 F.3d 441, 451 n.14 (10th Cir. 1995).

Notably, most of the Union’s arguments and claims of disputed fact go to issues of work performance and a variety of personal and program challenges, which are primarily in the nature of mitigation. Such evidence is not material to the *Wright Line* analysis beyond perhaps a *prima facie* case. Also notable is that many of the Union’s claims presume it has met its ultimate burden by merely establishing the existence of personal or Union-related animus alone. However, animus alone, without nexus to a protected right or status under PEBA, is not prohibited. *See, e.g., United Health Professionals of New Mexico v. UNM-Sandoval Regional Medical Center*, PELRB No. 128-24 (*Id.*, H.E. Report dated 1/8/26, pp. 20-21.); *see also AFSCME v. Dept. of Health*, PELRB Case No. 168-06, Hearing Examiner’s Report (Aug. 30, 2007). Instead, animus is relevant to the *prima facie* case, to infer a nexus or connection between the adverse action and the allegedly impermissible considerations. *See Carpenters Health & Welfare Fund*, 327 NLRB 262, 265 (1998); *Tschiggfrie Properties, Ltd. and Teamsters Local 120-IBT*, 368 NLRB No. 120 (2019).

In this case, the Union’s proffers are not shown to be material to retaliation for Union- or PEBA-activity.

Some of the proffers were simply not ultimately shown to be material, even when viewed in the context of the totality of the Union’s proffers. For instance, the September 2024 grievance was antecedent to his becoming the acting Local President. It was also too remote in time to the January 2025 emails and the District’s subsequent investigation and termination action to be material evidence of retaliation. This is particularly so given that the investigation was justified under the facts and circumstances. Specifically, it is undisputed that the Union-purpose of Mr. Masonjones’ January 2025 email(s) only precipitated District investigation because they were sent on work time and did not usually fall with the terms of Section 15(H) of PEBA (H); and Mr. Masonjones had been disciplined only days prior for the exact same thing. *Compare* PELRB 106-25, *supra* (“[t]he question is whether the investigation is *because of* his union activity, not whether

it is *about* his union activity”). (Although he grieved that discipline, he only grieved it on the issue of lack of Union representation, in violation of the CBA.)

Nor is there any basis in the existing record or pending pleadings to infer that the bell schedule would affect this analysis or conclusion. First, as found above, Mr. Masonjones declined in his affidavits to specify the purpose of the bell, other than to “to address concerns raised regarding conducting Union activity during student instructional time”. (Second Masonjones Aff., ¶ 4.) Because he did not state specifically how the evidence would rebut the legitimacy of the related charge(s) of misconduct, this was non-responsive and it does not create or show a material issue in genuine dispute. Second, reviewing the School Board record again, it was observed Mr. Masonjones and Union Counsel had the ability to cross-examine the District witnesses about the timing of emails sent and call additional witnesses about that but declined to do so. (October Appendix and School Board recordings.) Third, even if the bell schedule showed that Mr. Masonjones’ emails were not sent on duty time or concerned subjects permissible under Section 15, it would do nothing to disprove all the other admitted and/or proven misconduct.

Other evidence offered was also not shown to be material to a genuine dispute, and/or is cumulative. Most of the proffered evidence is offered for vague, conclusory purposes and a nexus between the evidence and claim of retaliation is not shown. This is particularly true for the evidence which Mr. Masonjones breezily swears, without explanation, will somehow show “retaliation”. Additionally, in some cases, the evidence was discussed at the School Board hearing, so it is cumulative to revisit it here. In other cases, the evidence was not supported by an affidavit explaining attempts to get the evidence admitted before the School Board, or by the proffered witness themselves.

Nor does the evidence of his prior favorable work record create material issues of genuine dispute in this case, although it might create such issues in a just cause matter. Prior to becoming, first, a Dual Credit teacher and then, President of the Local Union, Mr. Masonjones’ work record with the District was favorable but he faced challenges in the 2024/2025 school year as a Dual Credit teacher. These are very well documented in the record and they summarized in the Appendix to the undersigned’s October Order. However, the challenges he faced were personal to him, not Union-related; and no evidence was proffered to show that he did not in fact engage in the proven misconduct (aside from, perhaps, the bell schedule), and/or that the charge of misconduct was pretextual.

In particular, there is no evidence of “such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer’s proffered legitimate reasons for its action that a reasonable fact-finder could rationally find them unworthy of credence and hence infer that the employer did not act for the asserted non[retaliatory] reasons.” *Argo, supra* (emphasis added); *see also St. Mary’s, supra* (a reason is not a “pretext for [retaliation]’ unless it is shown both that the reason was false, and that discrimination was the real reason”), and *Randle, supra* (that an employer is entitled to a judgment if the employee “could not offer evidence tending to show the defendant’s innocent explanation for his employment decision was false”).

For instance, there is no evidence or basis in the record to suggest the charges were false or made up. They are supported by 10 student interviews, over 60 student complaints before then, the observations of co-workers having greater personal knowledge of Mr. Masonjones’ work conduct and performance than his own witnesses, and the unimpeached documentary evidence. There is also no evidence to suggest that the District has given more lenient discipline to non-Union affiliated employees engaged in similar types and varieties of misconduct as unrebutted here.

Moreover, the Union’s failure or inability to point to the existence and availability of material evidence in support of the claims and related proffers is especially conspicuous here, where the affected employee has already been afforded a two-day evidentiary hearing involving eight (8) witness; at least 27 exhibits; and 14 hours of hearing, including three and a half hours of testimony from Mr. Masonjones. Additionally, the Union has been granted ample additional opportunities to clarify or improve its proffers, and it has failed to do so even upon direct prodding or questions from the undersigned, and with the knowledge that the Hearing Examiner was contemplating that summary judgment may be proper. The undersigned is compelled by all of this to infer that the Union has no evidence of specific retaliatory statements or actions in support of its claims of retaliation, and no evidence to rebut the truth or accuracy of the charges against him (aside from the bell schedule).¹⁴

¹⁴ The undersigned acknowledges that she did not reiterate, after her October Order, that by “person with personal knowledge” she meant she required an Affidavit from the proposed Witness themselves. It did not occur to her that she needed to; and Mr. Masonjones’ Affidavits were flawed in multiple ways, leaving much other ground to cover. In any event, it seems highly telling that for all Mr. Masonjones’ and the Union’s expressed conviction in the materiality and merits of the proffers, they were not sufficiently convinced to obtain affidavits directly from proposed Witnesses based on their personal knowledge. Ultimately, if they could not or would not produce an Affidavit from a proposed Witness that reflected that

At most, the Union proffers evidence of animus. However, animus alone is insufficient to show that the District’s justification for termination was pretextual. As the undersigned recently addressed in *United Health Professionals of New Mexico v. UNM-Sandoval Regional Medical Center*, PELRB No. 128-24,

... the Union presents no real evidence, beyond hearsay and speculation, and some occasional temporal relativity... Instead, the Union’s case hinges ... anti-Union animus ...

The problem with this ... is that anti-union animus itself is not prohibited, and there is no proof in the record of a nexus between any anti-Union animus shown and the Hospital’s actions that are challenged in the instant PPC.

The primary relevance of animus is just to make a prima facie showing, which shifts the burden to rebut that prima facie case, in “dual motive” cases under *Wright Line*. ... At all times, however, the ultimate burden of proof remains on the Complainant. See *CWA v. Dept. of Health*, PELRB Case No. 108-08, Hearing Examiner’s Report (July 15, 2008)...

(*Id.*, H.E. Report dated 1/8/26, pp. 20-21, internal citations omitted.)

The undersigned also agrees with the District’s assessment that “fatal to the PPC is that misconduct is not equivalent to work performance, and prior receipt of good work evaluations does not establish pretext”. (*Id.* at 6.)

Because the undersigned accepted as established the nonretaliatory reason for termination – serious misconduct – the burden shifted to the Union to show “that there is a genuine dispute of material fact as to whether the employe’s reason for the challenged action is pretextual and unworthy of belief.” (*Id.*, citing *Ingles, supra.*, emphasis added.) Pointing to a prior good record can mitigate the severity of penalty under the just cause analysis, but it was not shown to be material here, under the *Wright Line* analysis.

Notably, even the most basic allegations of the PPC are not ultimately shown to be in material dispute or doubt. For instance, the PPC alleges or insinuates that the investigation was initiated simply because of his sending a “Union email” as President. However, it is undisputed that in reality it was because Mr. Masonjones was on duty time, most of the emails were not protections under Section 15 of PEBA, and he had been warned about the exact same thing two

Witness’ proposed testimony with sufficient specificity to determine its materiality and non-cumulative nature, there is no basis from which to infer additional hearing is possible or would be helpful. See *Goffe; Jelso*, and *Agnew, supra.*

days prior – and the District only learned about it because Mr. Masonjones inadvertently cc'd the Superintendent.¹⁵

Similarly, the PPC alleges or insinuates that the March Notice of Intent to Terminate was initiated in response to Mr. Masonjones having successfully overturned his January email LOR earlier in the month of March. However, no evidence or inference is proffered to suggest this was anything more than coincidence. The email initiated the investigation and the investigation and email LOR grievance process simply came into fruition at approximately the same time.

Notwithstanding all this record and process, Mr. Masonjones and/or the Union desire more under the banner of a fair hearing. They appear to desire a sprawling, freewheeling inquiry into all of Mr. Masonjones' deeply held but vague beliefs of animus and retaliation, which are ultimately shown to be based on nothing more belief and speculation. Specifically, the Union's and Mr. Masonjones' entire case is based only on coincidental timing, Mr. Masonjones' status as Local President, a "shift in attitude" towards Mr. Masonjones in the 2024/2025 school year as both his conduct and his performance deteriorated in the face of a challenging school year. Mr. Masonjones would also evidently like the indulgence to complain more about a variety of District operations that are not shown to be connected to any claim of retaliation against him for exercise of his PEBA rights, such as "lack of support" for teachers.

However, Mr. Masonjones' Union Officer status, his vague claims of retaliation, and any "shift in attitude" toward him are not competent evidence to create a genuine question of material fact entitling him to further hearing. This is particularly true here, where the record is replete with unrebutted non-retaliatory reasons in support of Mr. Masonjones' termination, and no specific, objective evidence is proffered to the contrary. Under this record, neither fair hearing standards, PEBA itself, nor summary judgment standards require that Mr. Masonjones be granted further indulgences, because there is no basis to infer from either the existing record or his proffer that he has or could produce material and competent evidence in support of his PPC or claims of retaliation/pretext.

¹⁵ To the extent, if any, that the Union is arguing some type of privilege and/or "fruit of the poisonous tree" theory, on a premise that no Union President activities or emails may be investigated under the PEBA, whatever the originating facts and circumstances, such a theory would be rejected by the undersigned in general and particularly under the undisputed facts presented here.

Because the Union wholly fails to point to material facts in dispute or provide adequate proffers of such (largely due to the inadequacy of the form, content, and author of the Affidavits submitted, as discussed), no further hearing is required¹⁶; and the PPC is properly dismissed as a matter of law, for lack of genuine dispute of material fact.

ORDER

Based upon foregoing findings, argument, standards, and analysis, the motion to dismiss the PPC as a matter of law, is hereby GRANTED. To the extent this Order is also essentially a final Report on the merits, the undersigned finds, concludes and recommends that the PPC should be dismissed.

Either way, this is a final order and Board Review may be requested pursuant to NMSA 11.21.3.19.

SO ORDERED this 27th day of January, 2026



Pilar Vaile
Executive Director and H.E.

¹⁶ In her October Order, the undersigned stated that in the event she decided no further evidence was “appropriate or...necessitated under the record”, she would “afford the Parties an opportunity to present final oral arguments to the undersigned before issuing her final Report and Recommendation in this matter”. However, the present procedural posture and record render that moot as the Parties written pleadings stand and serve well in lieu of oral argument.

APPENDIX A

EXPLANATORY NOTES ON MASONJONES' PRIOR YEARS' EVALUATIONS

2022/2023 Evaluations

As found above, in his 2022/2023 evaluation, Mr. Masonjones was also assessed as “Innovating” under Learning Outcomes 2B, “Creating a Safe Learning Environment with Routines and Procedures”; 3A, “Communicating with Students in a Manner that is Appropriate to their Culture, Language, and Level of Development”; 3D, “Assessment in Instruction”; 3E, “Demonstrating Flexibility and Responsiveness”; 1A, Demonstrating Knowledge of Content”; 1B, “Demonstrating Knowledge of Students”; 1D, “Demonstrating Knowledge of Resources”; 1E, “Designing Coherent Instruction”; 4B, “Participating in a Professional Learning Community”.

Domain 2 rubric items concern “Professional Responsibilities”.

Being rated as “Innovating” under Learning Outcome 2B, “Creating a Safe Learning Environment with Routines and Procedures”, entails the following:

Uses routines, and proactive responses that create and maintain a safe physical and intellectual environment where students take academic risks and play an active role—individually and collectively—in preventing behaviors that interfere with learning. Models this practice and shares thinking with students. Learning resources are accessible to use and adapt to advance learning and engage students at varying levels of academic content including English language proficiency and supports for students with disabilities. Students internalize daily routines. Students taking the initiative and contributing to the seamless operation of the classroom, well-organized transitions, and classroom procedures, including those that pertain to developmentally appropriate cooperative learning activities.

Domain 3 rubric items concern “The Classroom Environment”.

Being rated as “Innovating” under Learning Outcome 3A, “Communicating with Students in a Manner that is Appropriate to their Culture, Language, and Level of Development”, entails the following:

Strategies for students to interact with each other and offer feedback to peers. Grade-level appropriate scaffolds that support students’ language and academic proficiency levels and IEP goals for content and explanation of academic tasks. Ensuring understanding of idioms and figurative language by clarifying and rephrasing when necessary. Opportunities for students to lead and direct lesson components. Intentionally creating connections to students’ cultural and linguistic background knowledge.

Being rated as “Innovating” under Learning Outcome 3D, “Assessment in Instruction”, entails the following:

- Students approach assessment as an integral part of learning and comprehend how assessment is aligned to their development and growth by helping to establish assessment criteria.
- Students engage in setting and monitoring goals for learning and academic language development related to the content.
- Students can articulate their level of performance using the criteria and scoring guidelines provided.
- The teacher provides feedback that can be used by students in their learning.
- Supports students in monitoring their progress towards mastery of content standards and/or specialized instruction, using informal and formal classroom assessments including strategies that include a combination of self and peer assessment.

Being rated as “Innovating” under Learning Outcome 3E, “Demonstrating Flexibility and Responsiveness”, entails the following:

- Seizes opportunities to enhance learning by building on a spontaneous event or student interests.
- Creates opportunities for student-led instruction, discussion, and/or questioning.
- Appeals to student interests and makes cultural and linguistic connections to learning goals.
- Ensures the success of all students by using an extensive repertoire of instructional strategies in order to anchor instruction and help students make sense of content.

Domain 1 rubric items concern “Planning and Preparation”.

Being rated as “Innovating” under Learning Outcome 1A, “Demonstrating Knowledge of Content”, entails the following:

- Demonstrates extensive knowledge of the content area(s) to be taught, including academic language demands, and correlates the IEP objectives with lesson plans/unit, when applicable.
- Adapts as needed and implements standard-based units comprising well-structured lessons with challenging tasks and measurable outcomes with appropriate student engagement strategies, pacing, resources, grouping, and purposeful questions and strategic use of technology and digital media.
- Students are able to learn and apply authentic context to the knowledge and skills defined in the state standards. It contains evidence-based specialized instruction according to the IEP, when applicable.
- Creates opportunities for students to contribute to the lesson design and content; includes opportunities for modifications in the IEP or language proficiency levels to be implemented across content areas, when applicable.

Being rated as “Innovating” under Learning Outcome 1B, “Demonstrating Knowledge of Students”, entails the following:

- Demonstrates extensive knowledge and responsiveness to students’ backgrounds, cultures, skills, academic language development, interests, special needs—including present levels of performance for applicable content areas and behavioral issues as well

as accommodations and modification for individual students. □ Includes students in the planning of culturally sustaining strategies and incorporates those into instructional practice. □ Provides strong evidence of using student achievement data to differentiate instruction, including the use of ACCESS scores to support and monitor the progress of IEPs and to differentiate their instruction according to English language proficiency levels. □ Uses a wide repertoire of strategies to integrate a variety of learning styles and lessons and activities.

Being rated as “Innovating” under Learning Outcome 1D, “Demonstrating Knowledge of Resources”, entails the following:

□ Seeks out and uses resources available beyond the school and district—including those from professional organizations, the internet, and/or within the community—to enhance content knowledge and to use in teaching all students and especially those who demonstrate need. □ Strategically implements information and strategies obtained through professional development to address individual learning styles, rates, and levels of learning including students with disabilities, students’ cultural backgrounds, and/or English language proficiency. □ Creates lessons that reduce barriers, optimize levels of challenge and support, meet the needs of all learners, and increase access to the grade-level curriculum.

Being rated as “Innovating” under Learning Outcome 1E, “Designing Coherent Instruction”, entails the following:

□ Pedagogical practices include flexible grouping and differentiated instruction, based on student level and IEP goals, as applicable. □ Questions to reinforce and extend student learning and engagement to include real-world and application-based experiences, while including purposeful scaffolding of questions based on students’ level of academic language. □ Learning activities that, when possible, incorporate students’ use of their first and second languages to make connections to real-world applications and include learning activities that progress coherently, are research-based, and are relevant to students and the instructional/IEP goals, as applicable. □ Opportunities to incorporate student-centered learning as an instructional tool. □ Research-based practices, including sheltered and differentiated instructional strategies, with a variety of specially designed instructional materials.

Domain 4 rubric items concern “Instruction”.

Being rated as “Innovating” under Learning Outcome 4B, “Participating in a Professional Learning Community”, entails the following:

□ Makes a substantial contribution to the professional learning community. □ Actively and consistently participates in school/district activities. □ Shares knowledge of, and proactively seeks, opportunities to learn more about techniques and strategies to work with all students, which may include cultural perspectives. □ Proactively seeks opportunities to learn about researched-based techniques and strategies for sheltering academic language and that address student learning. □ Collaborates with other teachers to monitor IEP objectives addressed in the regular classroom.

2023/2024 Evaluations

As found above, in his 2023/2024 evaluation, Mr. Masonjones was assessed as “Innovating” again under Learning Outcomes 2A, 2B, 3A,1B, 1D, 1E, and 4B; and he was also rated “Innovative” that year under four (4) new Learning Outcomes: 2C, “Establishing a Culture for Learning”; 3C, “Engaging Students in Learning”; 1C, “Setting Instructional Outcomes and Designing Student Assessment”; and 4E, “Growing and Developing Professionally”.

Being rated as “Innovating” under Learning Outcome 2C, “Establishing a Culture for Learning”, entails the following:

- High levels of enthusiasm for the subject by teacher and students is evidenced by student engagement.
- Students seek out support and initiate improvements to their efforts (may vary depending on the student group population, e.g., ID, ED).
- Students being encouraged to reflect on their personal learning and growth.
- Students regularly seek out their peers as resources.
- Routinely supports all students to identify strengths, interests, and needs; set and pursue learning and language goals; ask for support when appropriate; take academic risks; problem-solve; challenge themselves, and monitor their own progress.
- The tone is set by the students and is inclusive of cultural and linguistic differences.

Being rated as “Innovating” under Learning Outcome 3C, “Engaging Students in Learning” entails the following:

- The teacher provides opportunities for students to lead reading, writing, speaking, and listening activities throughout the lesson.
- Consistently uses instructional practices that motivate and engage all students in the content for the lesson and independent work.
- Students incorporate cognitive, developmental, linguistic, and cultural experiences to support learning.
- The lesson incorporates multiple means of representation, expression, and engagement.
- The teacher encourages students to negotiate meaning and clarify understanding with their peers, which may be supported using a language other than English, as appropriate.
- The teacher consistently assesses student engagement and understanding while adapting instruction for improved learning when needed.

Being rated as “Innovating” under Learning Outcome 1C, “Setting Instructional Outcomes and Designing Student Assessment”, entails the following:

- Reflects high expectations that are clearly stated.
- Designs and administers a comprehensive system of informal and formal assessments, including common interim assessments and ongoing progress monitoring methods, to measure each student’s learning, growth, critical thinking, and progress toward achieving state standards.
- Assessments contain modifications, as required to ensure students can complete the

instructional outcomes and address IEP goals. Involves students in the process of developing learning goals, based on NM adopted standards. Provides opportunities for students to demonstrate and/or record where they are in their own learning. Shares clearly aligned rubrics with students and supports students to monitor their academic and linguistic growth.

Being rated as “Innovating” under Learning Outcome 4E, “Growing and Developing Professionally” entails the following:

Actively pursues professional development opportunities. Initiates activities to share expertise with others, including evidence-based instruction. Seeks out feedback and best practices from supervisors and colleagues/specialists in areas such as Indian Education, ELs, special education, and bilingual education, in order to make instruction accessible and understandable for all students. Expands on feedback from supervisors/colleagues and uses it to directly improve instruction.

APPENDIX B

Summary of Evidence of Misconduct by Mr. Masonjones

- The investigation revealed four (4) incidents of Mr. Masonjones sending Union-related emails while on duty time after the January 2025 email incident and LOR. Several were quite lengthy. One of the examples the District raises related to a Union investigation and the rest were general/information.
- Investigator Soland had IT Director Clark pull all of Mr. Masonjones' emails for the school year and create a spreadsheet. Then Soland obtained Masonjones' work schedule from Montano, to cross-reference whether he was sending Union-related emails during his instructional time, and the evidence showed he was. (Soland testim. and Investigator's Report; *see also* Investigator's Supplemental Report, Dist. Exs. 3-4.)
- At his School Board hearing, Mr. Masonjones testified that he only made minor edits or hit send for Union-related emails while on duty time. He also argued that he was permitted under PEBA to send Union emails during duty hours but over the course of his lengthy cross-examination, he admitted that such access is limited under PEBA and the CBA to non-duty or non-contract time, unless involving immediate and direct representation matters.
- The students' descriptions of Masonjones' charged acts and omissions related to instruction and classroom activities were consistent or "very similar" in describing numerous instances or types of misconduct as charged in the Notice of Intent and outlined in the Opening Statements, and the students provided the information voluntarily in a non-coercive situation to trained investigators.
- The majority of Mr. Masonjones remaining students reported that it was common for students to vape (nicotine and marijuana) in his classroom, and he reflected his awareness or knowledge of it to them by saying such things as "not in my class", or telling them to put it away. He did not report any of these instances of student misconduct.
- The majority of his remaining students reported that he sat at his desk with his feet up, shoes off, and phone in hand, approximately 90% of the time. They also credibly reported that he regularly and routinely allowed his students to play on their phones, rest, play, or sleeping during instructional time. The students uniformly represented that Masonjones did not help them when requested; neglected the class and his duties; taught nothing; blacked out his classroom windows; kept the lights off and door locks; kept it quiet; always sat at his desk with feet up and on his cell phone; and acted like he did not care. Ms. Montano observed emails where Masonjones' students requested his help, and he did not respond. Additionally, Staff members confirmed he had been discovered during his preparation period laying under his desk, watching videos on his cellphone. (Staff and students also reported that he was often barefoot when assuming the position at or under his desk.)

- The majority of his remaining students reported that Mr. Masonjones took clear actions to prevent his class from being observed by keeping his door locked and having the side windows of his classroom facing the hallway blacked out with construction paper; and that he did this to prevent the discovery of his misconduct and the students' idleness. All of his students interviewed reported that Mr. Masonjones instructed them that if an administrator attempted to come into the classroom, they were to use the time resulting from the locked door to get off their air pods and phones and appear to be working. They also reported that Mr. Masonjones would then get up and act like he was teaching and talking to them when, in fact, no instruction was being provided. When the administrator left his classroom, he would tell them that it's alright "we are good", and he would then sit back down and put his feet up and his students would go back on their phones, resting, playing or sleeping.
- Besides instances of misconduct related to vaping, attendance, making a plan to hide the lack of work going on, etc., Mr. Masonjones was not performing his basic duties of providing Dual Credit instruction and avoiding student idleness during instruction time.
- The District's expectations for Mr. Masonjones were known to Mr. Masonjones. The District's expectations were made clear to Mr. Masonjones and Dual Credit and/or Credit Recovery teachers generally, through the job description, other written guidance, and August 2025 training. (Dist. School Board Hearing Exs. 4, 6-7.) Expectations about attendance, and reporting attendance and other Student misconduct, are made clear to Mr. Masonjones and teachers generally through the handbook and annual refresher training. (Dist. School Board Hearing Exs. 19-20.)
- The basic expectation of all teachers is that no student is to sit idle. Additionally, Credit Recovery is independent study, to catch up in other classes, and in Dual Credit the teacher is supposed to supplement the students' understanding of the college professor's materials. Dual Credit was the course Mr. Masonjones was particular struggling with. The design of the Dual Credit program, modeled on a former GMCS college-prep program, is that the college Professor and the High School Teachers work alongside one another, with the High School Teacher's in-class work intended to supplement the College instruction, including teaching or reteaching the content as needed, so the Students understand and will be able to pass the course.
- The Dual Credit students receive two grades, one from the College Professor that constitutes two of the total three credit hours; and one from the High School Teacher, that constitutes one of the three credit hours.
- About one month into the fall 2024 semester, Mr. Masonjones' students began to come to Mr. Gutierrez, the CCCR Director, for help because they said Masonjones was unresponsive. It became a large daily number by the end of the first semester. The students contemporaneously described to Gutierrez essentially the same things described to Montano and Soland during their interviews, such as that there was no engagement or communication, he sitting with feet on desk, lights were off, it was boring, and that Mr. Masonjones and the class "don't do anything". (Mr. Gutierrez contemporaneously reported

his initial concerns to Administration and Deb Arthur said the semester was early and to give Mr. Masonjones time; then Mr. Masonjones was placed on administrative leave early in the next semester before Mr. Gutierrez could report his increased concerns to Administration.)

- The neglect, lack of supervision, and failure to monitor and report attendance issues were severe enough, once it all came out as a result of their investigation, that the District felt compelled by law to report it to CYFD and PED, and they also filed a police report.
- Mr. Masonjones only submitted a single 90-day or 19-week school plan in August, and not again thereafter.
- In their investigative interview, Mr. Masonjones admitted he worked on “micro credentials” for licensing on Canvas, that there was lots of downtime in his classes, and that he felt like he “wasn’t a Teacher”, but rather was just a “facilitator”
- Mr. Masonjones also failed or refused to track attendance, and his students were regularly ditching class, including four hours at a time, and while at the college branch campus. As for attendance, in September 2025, there is written guidelines and there was refresher training regarding use of the E-Hall Pass, the digital hall passes. Additionally, Mr. Masonjones had multiple routes to report truancy but failed to utilize them. (He said he reported it in Early Warning System (EWS) and to Administration and relied on Administration to handle it, but even that was not ultimately born out by the School Board record, which has been adopted, *see* Appendix C.) Also, he claimed to be unable to change attendance but that was shown to be false also. (“Present” is a default setting but can be changed by the Teacher and Early Warning System he only made three reports in the EWS and none about attendance.)
- All School Board witnesses agreed that a teacher should “absolutely” be able to take roll call and handle hall passes at a minimum, so that the failure to do so smacks of intentionality and willful disregard of School policies and expectations.
- All of this violates a variety of District policies including the following: Board of Education Policy G-0650 – GBEA Staff Ethics (Dist. Ex. 21); Board of Education Policy G-0750 – GBEB Staff Conduct-Standards of Professional Conduct (Dist. Ex. 22); §§ 6.60.9.8(A)(1); 6.60.9.8(B)(1) and (2); 6.60.9.8(C)(1), (2), (8) and (10); and 6.60.9.8(D)(4) NMAC Code of Ethics (Dist. Ex. 23); and 24. §§ 6.60.9.9(A)(2) and (3); 6.60.9.9(B)(7); and 6.60.9.9(C)(9), (13), (14), (20) and (23) NMAC Standards of Professional Conduct: Standard I Duty to the Profession (Dist. Ex. 24).

APPENDIX C

Summary of Mr. Maonjones' Offered Defenses or Factors of Mitigation

- Regarding vaping and/or marijuana use in class, Masonjones denied knowledge of it and said he lost his sense of smell from COVID, but student interviews refuted this because he would tell offenders things like put that away or not in my class.
- Regarding not helping students, he reported in the investigation and testified that it was due to his ADHD. Management told Masonjones that his role was to support the college professor and that he was “primarily there to make sure as many students pass as possible”, but he struggled with this role because he has ADHD and has to remain busy, and this assignment or role “seemed more like a babysitter” to him.
- Regarding the TikTok/cursing incident, he reported that he was trying to bond with the student.
- Regarding the Students' claims that he sat down 90% of the time, he said he sat down a lot in the latter portion of the first quarter of the 2024/2025 school year, due to asthma that was compounded by COVID. However, he also inconsistently insisted that he set an alarm to get up and walk around the classroom every ten (10) minutes “because of” his ADHD.
- Regarding his failure to record or report attendant, he testified that he had these students for third, fourth and fifth periods, and he could not change attendance for students in the fourth or fifth periods after their presence was noted in third period, because of how the blocks were coded in the District's Synergy system. He claimed he raised this many times with Admin. He said that he reported students ditching and/or wandering away from the campus class in the Early Warning System (EWS) and to Administration, and that they said they would talk to the students. He testified that he therefore thought it was being handled. However, all of this was refuted at the School Board hearing, and he proffers no evidence to the contrary now before the PELRB. (See Appendix B.) In fact, he ultimately admitted while testifying before the School Board that it was “clear to him”, coming up to or into the second semester, that he needed to do better at tracking his students' attendance and performance; and that “it got worse at the end”, including students “wandering off...during the college class”. He also eventually admitted, in an elevated and angry voice, that he could change attendance after all but did not know he was supposed to. (He also argued that his not knowing this showed it was a performance issue rather than a misconduct issue, as he also asserted regarding the proven failure to provide sufficient supplemental instruction to his Dual Credit students.)
- Regarding sending Union-related emails during duty time, he maintained he only made minor edits or hit send while on duty. He also attempted to defend it by stating that “PEBA allows reasonable access”. Upon cross examination, however, he conceded that PEBA distinguished using District equipment such as emails, and communications or contact on duty time to investigate a grievance or employment matters.

- It appeared to Administration and evidently the School Board that Mr. Masonjones never took accountability for anything and “it was all a lot of deflection” from him. For example, he could not smell the vape, he was sitting because of asthma, he used his cell phone to access his GMCS work and materials, there was no policy prohibiting having lunch alone with a female student, and the conduct like watching TikTok or cursing was just a “slip”.
- Additionally, he argued that in the interviews or notes, the Administration “took a series of small instances and blew them up”. He denied some of the things the students alleged, such as knowing about student vaping; and said many were taken out of context, such as referring to recreational marijuana use when he did so as part of a scientific project about health and traditional and non-traditional medicinal practices. He also pointed to the lack of written policies about vaping or use of cell phones or TikTok in class, which Ms. Scott confirmed.
- He also argued that the Dual Credit program was poorly or badly organized or premised. For instance, a survey showed that only 50% of the Dual Credit students were interested in college. He pointed to other program flaws as well. He felt students were not given a choice, and he was told that they were not allowed to drop the Dual Credit class. He additionally points out that he did not have access to the learning management system until eight (8) weeks into the course.
- The Freshman Experience class was designed to teach them how to navigate a campus – it had very high engagement, but hard and inflexible deadlines to turn in work, so all of those students dropped out toward the end of the first semester. The Health Pathways class professor was hired at the last minute and lacked a science or health background, being an English Professor. That professor was initially disorganized and not sufficiently rigorous with or controlling of the class, and he gave “chalk talks” of basic, unchallenging material, which Mr. Masonjones sought to improve upon, but the students resisted. Mr. Masonjones testified this was because, “as he understood it”, he lacked authority to issue them a grade. However, as described above, this was untrue – it would also not excuse misconduct of student or duty neglect. Additionally, he essentially admitted abdicating his duties later in his testimony, when he stated that he realized in retrospect that he had to “improve” grade tracking in the second 2024/2025 semester; and that he was “soft on discipline”.
- Mr. Masonjones’ testimony was also notable for its internal and external inconsistencies, and it reflected a magical belief in his own misaligned perceptions. For instance, he was internally inconsistent about sitting or walking around every ten (10) minutes, and whether the Dual Credit assignment was too hard or “100%” doable for him. Additionally, he testified very earnestly that at the August 20205 meeting on Dual Credit expectations, he asked about grading and was told, “like Mr. Gutierrez testified”, that Masonjones did not personally assign a grade. However, that was not what Mr. Gutierrez testified to – he instead clearly testified that the College professor assigned two-thirds of the total grade, and the High School Dual Credit Teacher assigns one-third of the grade. Similarly, Mr. Masonjones testified that Ms. Scott or another witness confirmed his “understanding” that

he could not change attendance after the start of a three-period block but that was, again, not what was testified to.

- Besides his own testimony and exhibits, Mr. Masonjones adduced testimony from several co-workers, including Ms. Scott and Mr. Lopez. However, despite testifying at some length, neither of these witnesses were shown to have personal knowledge about Mr. Masonjones' conduct or performance in the 2023/2024 school year, or helpful testimony for him. In the case of Mr. Lopez, there was ample basis for the School Board to reject his testimony, as it was glib and insouciant, and he declined to answer bias-related questions in a straightforward manner. Moreover, even the otherwise credible Ms. Scott admitted she would not engage in much of the conduct he stood accused of by the students (such as cursing in the classroom, regularly being on his cell phone, or watching TikTok at all or with students), because it is inappropriate even if not prohibited. (The exception is sitting – she sits most of the day but has presented a doctor's note or medical excuse for that.)
- Ultimately, Mr. Masonjones was perceived by District Administration and evidently the School Board as untruthful, for claiming he was not trained in his job duties, and in denying knowledge of vaping due to loss of smell when the fumes are visible and he reflected to his students that it was observed by saying words to the effect of “not in my room”.
- Mr. Masonjones was also perceived as being dishonest about his supposed lack of ability to change attendance. The default attendance in the District's Synergy system is “present” until the Teacher takes attendance and changes it, but they can change it. Moreover, even Mr. Masonjones' own witness, Ms. Scott, recognized his not tracking or reporting attendance was a problems and cautioned or advised him to begin to report problems through EWS, shortly before he was placed on administrative leave.
- He was also perceived by all as being willfully derelict, and even “lazy” by at least one School Board member, for not trying to teach his Dual Credit students in a meaningful fashion. His failure to do may derive from a programmatic disagreement between he and the District: the District did not believe any student should be “put in a box”, while Masonjones did not think students that were struggling with High School were good candidates for the Dual Credit course. Additionally, as he made clear in the School Board hearing, Mr. Masonjones just really, really wanted to teach a different class.
- The Investigator opined that Mr. Masonjones was dishonest and/or lacked candor based on Masonjones' verifiably false or incorrect claims, such as that he received no training for the Dual Credit courses, could not change attendance, and was unaware of vaping. After having observed Mr. Masonjones' demeanor in his School Board hearing, the undersigned is prepared to make credibility determinations about Mr. Masonjones. If the matter were remanded back to her for a hearing on any issue, she would agree with the assessments that he deflected responsibility repeatedly and inappropriately, and did not testify accurately, even if he lied to himself as much as to the District and School Board.