

**CLEAR FORK VALLEY LOCAL SCHOOLS  
BOARD OF EDUCATION  
Special Meeting  
Streaming on District Main Twitter Live @ <https://cfcolds.org/>  
February 11, 2021  
6:30 p.m.**

**District Mission Statement:** *Striving to Exceed Expectations*

The Special Meeting of the Clear Fork Valley Local School board was called to order at 6:38 PM by Board President Mr. Gary McCue.

Roll call was taken and the following members were present: Mr. Ryan Knuckles, Mrs. Amy Weekley, Mr. Gary McCue, Mrs. Lori McKee, and Mr. Carl Gonzalez.

Board President Mr. Gary McCue stated that the reason for holding a special meeting was because there is a possibility that some Board members may not be able to attend the regularly scheduled meetings over the next few months and these were important resolutions that he wanted to give the whole Board the opportunity to vote on.

**EXECUTIVE SESSION**

**2021-047** **Upon Motion** by Mr. Knuckles and seconded by Mr. McCue, the Board entered into executive session in accordance with Ohio Revised Code 121.22 to consider the employment, dismissal, discipline, and/or compensation of public employees at 6:40 PM.

<b>The vote was:</b>	<b>Mrs. McKee</b>	<b>Yes</b>	<b>Mr. Gonzalez</b>	<b>Yes</b>
	<b>Mr. Knuckles</b>	<b>Yes</b>	<b>Mr. McCue</b>	<b>Yes</b>
	<b>Mrs. Weekley</b>	<b>Yes</b>		

**2021-048** **Upon Motion** by Mr. Gonzalez and seconded by Mr. Knuckles, the Board exited out of executive session and resumed the special meeting at 6:49 PM.

<b>The vote was:</b>	<b>Mrs. McKee</b>	<b>Yes</b>	<b>Mr. Gonzalez</b>	<b>Yes</b>
	<b>Mr. Knuckles</b>	<b>Yes</b>	<b>Mr. McCue</b>	<b>Yes</b>
	<b>Mrs. Weekley</b>	<b>Yes</b>		

**EMPLOYMENT OF KIRSTEN DEVITO**

**2021-049** **Upon Motion** by Mr. McCue and seconded by Mr. Gonzalez, the Board approved the following Resolution:

WHEREAS, Kirsten DeVito (hereinafter “Mrs. DeVito”) was employed by the Board of Education of the Clear Fork Valley Local School District (the “Board”) as the Principal of Bellville Elementary School pursuant to a three-year administrative limited contract for the 2016-2017, 2017-2018 and 2018-2019 school years pursuant to Ohio Revised Code Section 3319.02; and

WHEREAS, as a teacher and administrator (defined by Ohio Revised Code 3319.09), Mrs. DeVito has the responsibility to abide by Board Policies, applicable State and Federal laws, the Licensure Code of Professional Conduct for Ohio Educators, and the reasonable, lawful directives of the Superintendent; and

WHEREAS, in the execution of her professional duties, one of the most fundamental and important duties of a Principal at Clear Fork Valley Schools is to effectively and efficiently organize, manage and administer the staff of the school building and to evaluate the staff in accordance with Board policy and State law as well as the teacher negotiated agreement and the Teacher Evaluation Handbook; and

WHEREAS, based on allegations made concerning Mrs. DeVito's conduct as it related to teacher evaluations, including utilizing teachers' signatures without their knowledge and/or approval and preparing questionable evaluation forms discovered after a personnel file investigation, on September 19, 2018, the Board of Education unanimously adopted a "Resolution to Initiate Proceedings for the Termination of the Employment Contract of Kirsten DeVito" (hereinafter "Resolution") for good and just cause; and

WHEREAS, the Resolution identified the termination specifications as "Attachment 1" and entitled "Full Specifications of the Grounds for Consideration of Terminating the Contract of Kirsten DeVito" (hereinafter "Full Specifications") which included five (5) separate, distinct and independently sufficient grounds for termination including: 1) Violation of Board Policies AE, AFC-1 and GCN-1 and GBCB; 2) Violation of the District's Collective Bargaining Agreement with the teachers' union; 3) Dishonest, fraudulent and immoral behavior; 4) Insubordination; and 5) Violation of the Licensure Code for the Professional Conduct of Ohio Teachers; and

WHEREAS, the Board asserted three (3) evidentiary facts to support the specified ground of Violation of Board Policies including:

- Cutting and taping/stapling teacher signatures without their knowledge or approval.
- Failing to assist a teacher while on an Improvement Plan.
- Repeatedly recording inconsistent or incorrect observation dates; and

WHEREAS, the Board asserted one evidentiary fact to support the specified ground of Violating of the District's Collective Bargaining Agreement with the teachers' union:

- Failing to obtain a teacher's original signature on an evaluation document; and

WHEREAS, the Board asserted four (4) evidentiary facts to support the specified ground of dishonest, fraudulent and immoral behavior including:

- Using teachers' signatures without their knowledge or approval.
- Using a teacher's electronic signature without the teacher's knowledge or permission.
- Asking a teacher to sign a blank document.
- Recording inaccurate evaluation times; and

WHEREAS, the Board asserted one evidentiary fact to support the specified ground of insubordination:

- Failing to obey Superintendent Wyckoff's order to deliver evaluation documents to her on April 5, 2018.

WHEREAS, one evidentiary fact was asserted to support the specified ground of violating the Licensure Code for the Professional Conduct of Ohio Teachers including:

- Utilizing the signatures of teachers without their knowledge or approval on evaluation forms; and

WHEREAS, prior to adopting its Resolution of September 19, 2018, the Superintendent provided Mrs. DeVito a draft copy of the Full Specifications and offered her the opportunity for a pre-termination hearing ("Loudermill Hearing") to respond to the allegations and show cause why her contract should not be terminated, such hearing occurring on August 9 and 24, 2018, and September 18, 2018; and

WHEREAS, in the judgment of the Board, the character of the conduct described in the Full Specifications was such that it warranted immediate suspension and, therefore, Mrs. DeVito, pursuant to Ohio Revised Code § 3319.16, was suspended without pay or benefits effective 12:01 a.m. on September 20, 2018, pending final action by the Board to consider termination of her employment contract; and

WHEREAS, on September 20, 2018, the Treasurer provided Mrs. DeVito notice of the Board's intent to consider the termination of her employment contract, a copy of the Resolution and Full Specifications, and notified her of her right to request a hearing before the Board or a referee appointed by the Ohio Superintendent of Public Instruction in accordance with Ohio Revised Code Sections 3319.16 and 3319.161; and

WHEREAS, on September 21, 2018, Mrs. DeVito, through legal counsel, exercised the right granted by RC 3319.16 and requested a private hearing before a referee; and

WHEREAS, the Ohio Department of Education informed the parties of the candidates for appointment as the referee and ultimately appointed Ronald E. Alexander (hereinafter the "Referee"); and

WHEREAS, on dates mutually agreed upon, the Referee conducted a multi-day termination hearing at which Mrs. DeVito was provided a full and meaningful hearing with the opportunity to be heard, to call and/or cross-

examine witnesses and submit documents into evidence, and to submit motions and briefs; and

WHEREAS, finding that the Board of Education satisfied the statutory requirement to provide “full specification of grounds for consideration,” the Referee provided his Report and Recommendation on July 4, 2020, which is attached hereto and incorporated herein; and

WHEREAS, through the evidentiary record of witness testimony and evidentiary documents, the Referee determined five hundred and eleven (511) Findings of Facts; and

WHEREAS, from his Findings of Facts, the Referee determined that the Board proved by clear and convincing evidence four (4) of the Evidentiary Facts it asserted including:

1. Mrs. DeVito cut and taped or stapled teachers’ signatures without those teachers’ knowledge or approval.
2. Mrs. DeVito used teachers' signatures without their knowledge or approval.
3. Mrs. DeVito asked a teacher (Susan Brown) to sign a blank document.
4. Mrs. DeVito recorded inaccurate evaluation times; and

WHEREAS, the Referee determined that the Board did not prove by a preponderance of the evidence the following Evidentiary Facts it asserted:

1. Mrs. DeVito failed to assist a teacher (Jennifer Kahl) while on an Improvement Plan.
2. Mrs. DeVito repeatedly recorded inconsistent or incorrect observation dates.
3. Mrs. DeVito used an electronic signature without knowledge or permission of a teacher.
4. Mrs. DeVito was insubordinate on April 5, 2018.
5. Mrs. DeVito violated Rule 1 of the Professional Code of Conduct by utilizing the signatures of teachers without their knowledge or approval on evaluation forms; and

WHEREAS, based on the four (4) proven Evidentiary Facts, the Referee determined that the Board proved by clear and convincing evidence that Mrs. DeVito’s request of Ms. Brown to sign a blank document was dishonest, fraudulent and that her repeated recording of inaccurate

evaluation times to be dishonest, fraudulent and immoral and recommendation the termination of her contract; and

WHEREAS, as it relates to signing a blank document, the Referee found that asking Susan Brown to sign a Formal Observation Form with a blank narrative summary was a request for Ms. Brown to certify with her signature that Mrs. DeVito had completed the form, including the written narrative summary portion of the form and was “asking Ms. Brown to lie, to perpetrate a fraud on the Board that Mrs. DeVito had presented a completed observation form for Ms. Brown’s signature.” The Referee also found that requesting Ms. Brown to lie on an evaluation form was conduct which was “hostile to the school community” and “conscious wrongful behavior which was a fairly serious matter.” In this respect, the Referee found Mrs. DeVito’s behavior to be clear and convincing evidence of dishonest, fraudulent and immoral behavior and good and just cause to terminate Kirsten DeVito’s contract; and

WHEREAS, as it relates to recording inaccurate evaluation times, the Referee found that Mrs. DeVito “knowingly concealed the truth” when she: (1) failed to record the ending time of Ms. Koch’s November 14, 2017 formal observation; (2) recorded overlapping November 16, 2017 observation times on separate evaluation forms for Mr. Bean and Ms. Kahl; (3) recorded a five minute December 4, 2017 observation time of Ms. Gerhardt; (4) recorded an inaccurate end time for her walkthrough of Ms. Mayer’s classroom on February 15, 2018; and (5) recorded inaccurate end and start times for her February 15, 2018 observation of Ms. Carper; and that by repeatedly recording inaccurate evaluation times Mrs. DeVito’s conduct was “clearly hostile to the District’s evaluation process, impacted her professional duty to accurately record observation times and violated the Board Policy GCN-1 for Evaluation of Professional Staff” and was dishonest, immoral and fraudulent and, therefore, clear and convincing evidence of good and just cause to terminate Kirsten DeVito’s contract; and

WHEREAS, the Referee found that the Board did not prove its other specified grounds constituted good and just cause for termination including Violation of Board Policies, Violation of Collective Bargaining Agreement with the teachers’ union, Insubordination and Violation of the Licensure Code for the Professional Conduct of Ohio Teachers; and

WHEREAS, the Board is now obligated to accept or reject the Referee’s Findings of Facts and Recommendations; and

WHEREAS, to prepare for its decision and to be able to engage in thoughtful deliberation and consideration of the Referee’s Report and Recommendation, the members of the Board received copies of the Referee’s Report and Recommendation, the transcript of the hearing, the exhibits presented, and the post-hearing briefs (the “Record”).

NOW THEREFORE BE IT RESOLVED that after careful consideration of the Record and the Referee's Report and Recommendation, the Board hereby determines for the reasons set forth below to accept in part and reject in part the Referee's Report and Recommendation and finds that there is good and just cause to terminate the employment of Kirsten DeVito.

**BOARD'S REVIEW OF REFEREE REPORT AND  
RECOMMENDATION**

**Findings of Facts**

The Board accepts the Referee's Findings of Fact ("FOF") 1 – 511.

**Findings of Evidentiary Facts**

The Board agrees with and accepts the following Referee's findings of Evidentiary Facts:

1. Mrs. DeVito cut and taped or stapled teachers' signatures without those teachers' knowledge or approval.
2. Mrs. DeVito used teachers' signatures without their knowledge or approval.
3. Mrs. DeVito asked a teacher to sign a blank document.
4. Mrs. DeVito recorded inaccurate evaluation times.

The Board acknowledges and accepts the Referee's findings that the Board did not prove by a preponderance of the evidence the following Evidentiary Facts:

1. Mrs. DeVito failed to assist a teacher (Jennifer Kahl) while on an Improvement Plan.
2. Mrs. DeVito repeatedly recorded inconsistent or incorrect observation dates.
3. Mrs. DeVito used an electronic signature without knowledge or permission of a teacher.
4. Mrs. DeVito was insubordinate on April 5, 2018.
5. Mrs. DeVito violated Rule 1 of the Professional Code of Conduct by utilizing the signatures of teachers without their knowledge or approval on evaluation forms.

## **Hearing Referee's Recommendations**

The Board agrees with and accepts the Referee's findings and recommendations that Mrs. DeVito engaged in dishonest, fraudulent and immoral behavior on six (6) different occasions, which, each instance standing alone, constitutes good and just cause to terminate her contract as follows:

1. Mrs. DeVito's conduct of asking Mrs. Brown to sign a 2016-2017 evaluation form which had a blank narrative summary was dishonest, fraudulent and immoral behavior, and was therefore good and just cause to terminate Kirsten DeVito's contract.
2. Mrs. DeVito's concealment of the truth when she failed to record the ending time of Ms. Koch's November 14, 2017 formal observation was dishonest, fraudulent and immoral behavior, and was therefore good and just cause to terminate Kirsten DeVito's contract.
3. Mrs. DeVito's concealment of the truth when she recorded overlapping November 16, 2017 observation times on separate evaluation forms for Mr. Bean and Ms. Kahl was dishonest, fraudulent and immoral behavior, and was therefore good and just cause to terminate Kirsten DeVito's contract.
4. Mrs. DeVito's concealment of the truth when she recorded a five-minute December 4, 2017 observation time of Ms. Gerhardt was dishonest, fraudulent and immoral behavior, and was therefore good and just cause to terminate Kirsten DeVito's contract.
5. Mrs. DeVito's concealment of the truth when she recorded an inaccurate end time for her walkthrough of Ms. Mayer's classroom on February 15, 2018 was dishonest, fraudulent and immoral behavior, and was therefore good and just cause to terminate Kirsten DeVito's contract.
6. Mrs. DeVito's concealment of the truth when she recorded inaccurate end and start times for her February 15, 2018 observation of Ms. Carper was dishonest, fraudulent and immoral behavior, and was therefore good and just cause to terminate Kirsten DeVito's contract; and

The Board acknowledges and accepts the Referee's finding that it did not prove by a preponderance of the evidence that Mrs. DeVito failed to assist teacher while on an improvement plan.

The Board further acknowledges and accepts the Referee's finding that it did not prove by a preponderance of the evidence that Mrs. DeVito recorded inaccurate observation dates.

The Board further acknowledges and accepts the Referee's finding that it did not prove by a preponderance of the evidence that Mrs. DeVito's conducted of not obtaining teachers' original signatures on Evaluation Cycle Forms violated the collective bargaining agreement.

The Board further acknowledges and accepts the Referee's finding that it did not prove by a preponderance of the evidence that Mrs. DeVito used an electronic signature without a teacher's knowledge or permission.

The Board further acknowledges and accepts the Referee's finding that it did not prove by a preponderance of the evidence that Mrs. DeVito was insubordinate on April 5, 2018.

The Board further acknowledges and accepts the Referee's finding that Ohio Revised Code 3319.16 does not grant a hearing referee power to decide the question of law whether a teacher has violated a rule promulgated by the Ohio State Board of Education and that power rests exclusively with the Ohio State Board of Education by Ohio Revised Code Section 3319.31. For this reason, the Board likewise will not decide whether Mrs. DeVito violated Rule 1 of the State Board's Licensure Code of professional Conduct for Ohio Educators.

The Board further acknowledges and accepts the Referee's finding that Mrs. DeVito's conduct of cutting and taping/stapling teacher signatures without their knowledge or approval did not violate Board Policy AE or Board Policy GBCB.

However, based upon a different interpretation of the significance of the facts, the Board rejects the Referee's conclusion regarding a violation of Board Policy AFC-1 and GCN-1 and finds that Mrs. DeVito's conduct of cutting and taping/stapling teacher signatures without their knowledge or approval violated Board Policy AFC-1 and GCN-1 warranting good and just cause for termination.

In reaching his conclusion regarding this policy violation, the Referee determined that the preponderance of the evidence did not demonstrate that the Evaluation Cycle Form was an "evaluation" document or form or a component of the Districts evaluation process. (Referee Report and Recommendation PP 168).

The Board finds that the Referee erred when he concluded that the Evaluation Cycle Form was not an "evaluation" document or form or a component of the District's evaluation process and disregarded probative evidence and testimony demonstrating that the Evaluation Cycle Form was an evaluation document and a component of the District's evaluation process.

Board Policy AFC-1 and GCN-1 is the Board of Education's Evaluation of Professional Staff Policy which directs the Superintendent/designee to



implement the District's Evaluation Policy in accordance with State law. In implementing the District's Evaluation Policy, the Board finds that Policy AFC-1 and GCN-1 provides the Superintendent with the express and inherent authority to develop evaluation forms and to direct administrators in the use and implementation of staff evaluations.

The Referee accurately recognized that Superintendent Wyckoff modified the evaluation process when, at the beginning of the 2017-2018 school year at the October 18, 2017 administrative meeting, she instructed the Principals to immediately commence using the new Evaluation Cycle Form and announced a retroactive change to the Board's evaluation process by instructing Principals to meet again with those teachers who had been formally observed prior to October 18, 2017, and to complete the new Evaluation Cycle Form with each of those teachers. (Referee Report and Recommendation Pg. 163).

The Board finds that the manifest weight of the evidence demonstrates that the Superintendent had the authority to modify the evaluation process and create the Evaluation Handbook without Board approval.

The duties of the Clear Fork Valley Local School District's principals include the evaluation of teachers and the requirement to "fulfill any and all directives given by the Superintendent. (FOF 7). Thus, Mrs. DeVito was obligated to follow the directives of the Superintendent as they related to the completion of an Evaluation Cycle form.

The Board further finds that Board Policy CHCA allows the Superintendent to create handbooks without Board approval and that the Referee disregarded evidence and applied an incorrect interpretation of Board Policy CHCA. (Referee Report and Recommendation, Pgs. 167- 168).

The Board finds that the Referee failed to reference or consider the operative language contained in Policy CHCA that expressly provides the Superintendent the ability to develop and implement handbooks that do not have to be approved by the Board. Board Policy CHCA states in relevant part:

In order that pertinent Board policies, regulations and school rules are known by all staff members and students affected by them, administrators are granted authority to issue staff and student handbooks as necessary.

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The Superintendent uses his/her judgment as to whether other specific handbooks need Board approval. All other handbooks published are to be made available to the Board for informational purposes. (FOF 18); B. Ex. YY.

The Board finds that the Referee disregarded the Superintendent's testimony describing her authority under Board Policy CHCA to develop handbooks:

*A. Handbooks are in board policy.*

*Q. Well, if they're not adopted, how can they be in board policy?*

*A. The board policy states that I have the right to develop handbooks*

*at my, whenever I need to, for the business of the District. And in policy, I can develop a handbook any time that does not have to be developed or approved by the Board. TR. PP. 312.*

The Board finds that the Superintendent's October 20, 2017 email fulfilled her obligations under Board Policy CHCA by informing the Board of the status of the Evaluation Handbook:

*Had final teacher evaluation meeting for the handbook this week. Completed*

*typing it up and have begun making copies. Met with administration to go through the handbook. The union and myself will be meeting with all staff members to explain the handbook over the next few weeks. The handbook will go into full effect January 1, 2017 [sic]. For now only two forms will be completed during this semester. (FOF 121).*

Based on the above, the Board finds that the Superintendent's discretion to develop the Evaluation Handbook and to direct the principals to utilize the Evaluation Cycle Form contained in the Handbook falls squarely within the purview of her duties and responsibilities pursuant to Board Policies GCN-1 and CHCA.

The Board further finds that the Evaluation Handbook, and that the forms in the Handbook, including the Evaluation Cycle Form, are considered evaluation forms and components of the Clear Fork Valley Local School District's teacher evaluation process.

The Record demonstrates that the Evaluation Cycle Form was designed and meant to be utilized as part of the evaluation process and is an official document that resides in the teachers' personnel files.

Like a teacher's Observation Form, the Evaluation Cycle Form has a teacher signature block and an evaluator's signature block and provides clear notice on its face that a teacher's signature would certify and attest that the teacher and evaluator discussed the evaluation cycle rating:

"The signature above indicates the teacher and evaluator have discussed the evaluation cycle and the rating of the evaluation." (FOF 26).

(Referee's Report and Recommendation Pg. 227).

The Board further finds that the Record supports that Mrs. DeVito considered the Evaluation Cycle Form to be an evaluation form. Specifically, on April 4, 2018, the Superintendent directed Mrs. DeVito to provide her with “any and all original evaluation forms” that Mrs. DeVito had kept in her possession. (FOF 61). In response, Mrs. DeVito delivered the original Teacher Formal Observations forms as well as the original Evaluation Cycle Forms with the attached copies of the signature portions of those Teacher Formal Observation forms to the District’s office building on April 5, 2018. (FOF 416).

Finding that the evidence supports the fact that the Evaluation Cycle Form constituted an evaluation document and a component of Clear Fork Valley’s teacher evaluation process, the Board finds that Mrs. DeVito violated Board Policy AFC-1 and GCN-1 by failing to properly, effectively and competently evaluate staff by copying the second page of the Formal Teacher Observation forms of Katie Carney, Kattie Chance, Joy Dials, Susan Fitzgerald, Jennifer Kahl, Lynelle Leedy, Rachel Schag, Rhonda Studenmund, and Lisa Thorne, cutting out the signature portions from those copies of the teachers’ Teacher Formal Observation forms, and attaching those cut-out signature portions of their Teacher Formal Observation forms to their respective Evaluation Cycle Forms without their knowledge or approval.

As it relates to use of teachers’ signatures without their knowledge or approval, the Board disagrees with the Referee and finds that Mrs. DeVito’s use of teachers’ signatures without their knowledge and approval constitutes dishonest, fraudulent and immoral behavior to warrant good and just cause for termination.

It is undisputed that as of December 5, 2017, Mrs. DeVito was aware that she was required to complete an Evaluation Cycle Form, and, that she needed to obtain teacher signatures on the Cycle Form. (TR. PP. 1183, 1370). Thus, as of December 5, 2017, any decisions that were made by Mrs. DeVito to use the teachers’ signatures were made deliberately and purposefully as Mrs. DeVito and no one else, affixed the copies of the signature page portions of the Teacher Formal Observation forms to the Evaluation Cycle Forms. (FOF 393).

Despite interacting with teachers on a daily basis and having plenty of opportunities to meet with them between December 2017, and March 2018, Mrs. DeVito chose not to go back and meet with ten teachers to obtain their signatures on their Evaluation Cycle Forms. Instead, without their knowledge or approval, using their Teacher Formal Observation forms, she copied the signature page of each teacher’s Formal Observation form, cut out the teacher’s signatures from the copied Teacher Formal Observation forms, and attached the copies of the signature portions of the Teacher Formal Observation forms to the teacher’s original Evaluation Cycle Forms. (FOF 414).

Mrs. DeVito testified that she gave each teacher a copy of their Evaluation Cycle Form and that the copies of the Cycle Forms were photocopied to display the attached cut-out signature portion of their teacher formal Observation form. (FOF 394, FOF 82, TR PP 1423-1424). Mrs. DeVito's testimony is not supported by the Record. The Record demonstrates that with the exception of Jennifer Kahl, who saw her Evaluation Cycle Form in her personnel file for the first time on March 22, 2018, the first time that the other nine teachers saw their Cycle Form with their signature cut and affixed to it was during the personnel file investigation that occurred in April 2018. (FOF 57, Bd. Exhibit HH).

Mrs. DeVito's claim that the Superintendent authorized her actions related to the preparation of the Cycle Form is not supported by the Record and untrue. The Referee found that Superintendent Wyckoff did not authorize Mrs. DeVito to attach a cut-out copy of the signature portion of the Teacher Formal Observation form to a teacher's Evaluation Cycle Form. (FOF 84). The Board further finds that the Referee failed to address and/or consider the significance of the reason why the teacher statements were obtained to begin with. The Record supports the fact that teachers' statements were obtained because Mrs. DeVito had originally represented to the Superintendent that she had obtained the teachers' approval to use their signatures. (Tr. PP. 177). With the exception of one teacher, all of the teachers' signed statements indicated that they did not give Mrs. DeVito their permission to use their signatures.

The Board further finds Mrs. DeVito's behavior once she had generated the Evaluation Cycle Forms amounts to deliberate concealment of the truth. The Referee largely disregarded the fact that what was discovered in the teachers' personnel files were copies of the Evaluation Cycle Form that did not contain any staples or tape. (FOF 58). Mrs. DeVito turned in *copies* of the Evaluation Cycle Forms to the central office to be filed in the teachers' personnel files. She maintained the original Evaluation Cycle Forms that she had taped and stapled until she was directed by the Superintendent on April 4, 2018 to turn them over. (FOF 414).

The Record supports that upon seeing the Evaluation Cycle Forms for the first time, several teachers were confused and did not know where their signatures had been taken from. (Tr. 2358 and Tr. 2404).

The Board finds that the Record supports fraud and dishonesty occurred when Mrs. DeVito concealed her actions by not informing anyone of what she had done, by maintaining the original documents in her possession until the Superintendent instructed her to turn them over, by initially informing the Superintendent that she had obtained the teachers' approval to do what she had done, by refusing to provide an explanation for what she had done, and by claiming that she had given the teachers a copy of their Evaluation Cycle Form with the copy of their signature, and by suggesting that the Superintendent had approved of her actions.

Besides Paula Slezak, who testified that she knew what was happening with her Evaluation Cycle Form, there is no evidence in the Record to

demonstrate that Mrs. DeVito informed anyone what she had done with the Evaluation Cycle Forms or that she had any intention of doing so. After completing the Cycle Forms, the Record demonstrates that Mrs. DeVito concealed her actions by not informing anyone, maintaining the originals in her possession until the Superintendent instructed her to turn them over, and refusing to provide an explanation when confronted.

The Board finds Mrs. DeVito's use of teachers' signatures without their knowledge or approval and knowingly concealing the truth to be conscious wrongful behavior of a fairly serious matter.

The existence of the copies of the Cycle Forms in teacher personnel files was discovered by chance because Mrs. DeVito left Mrs. Kahl's cut-up evaluation form under the lid of copy machine at Bellville Elementary which prompted the Union to request a personnel file investigation. (FOF 267).

Following the discovery of Mrs. Kahl's Cycle Form and the personnel file investigation at which nine more of these forms were discovered to have been similarly prepared, Mrs. DeVito made no attempt at an explanation for what she had done. The Superintendent provided Mrs. DeVito with at least two opportunities to provide an explanation on April 25, 2018, and on July 19, 2018, and Mrs. DeVito did not respond. (FOF 70, 71, 72 and 74).

Although not corroborated by Mrs. DeVito, Paula Slezak provided some insight as to Mrs. DeVito's motivations behind her actions.

Paula Slezak prepared and signed a personal statement on August 31, 2018, stating that she had granted permission to Mrs. DeVito at her post conference to attach a copy of the signature portion of her Teacher Formal Observation form to her Cycle Evaluation Form. (FOF 214). During the hearing, Ms. Slezak reiterated that Mrs. DeVito had sought her permission and that it had been granted. (PP. 728-731). Mrs. Slezak revealed that the reason that Mrs. DeVito told her that she was going to cut and affix Ms. Slezak's signature was because she felt that the information on the Evaluation Cycle Form would be the same and that calling another meeting to discuss the same thing and sign another form for the same information would be a "waste of time." (FOF 214).

The Referee found Ms. Slezak to be a credible witness. (Referee Report and Recommendation PG. 74).

Accepting the Referee's finding that Ms. Slezak was a credible witness, the Board finds that Ms. Slezak's testimony directly contradicts Mrs. DeVito's testimony and that the Referee failed to consider or address the significance of the discrepancies between the testimony of Ms. Slezak and Mrs. DeVito.

The Record reflects that Mrs. DeVito claimed that she had no recollection of asking Ms. Slezak for permission to copy her signature from the Teacher Observation form onto the Evaluation Cycle Form. TR. PG. 1405.

The Record further reflects that Mrs. DeVito did not substantiate Ms. Slezak's testimony that obtaining teachers' signatures would be a waste of

time. Instead, initially, Mrs. DeVito testified that she did not know why she did not have the teachers sign their Evaluation Cycle forms at their post conferences. (FOF 394). The Record further reflects that Mrs. DeVito later contradicted herself when she testified that she did not have the teachers sign the Evaluation Cycle form because she did not realize there was a signature on the bottom of the form until December 5, 2018. (TR. 1384).

The Board finds that Mrs. DeVito's decision to utilize teachers' signatures without their knowledge or approval was more than mere bad judgment.

The Board finds that the Referee largely ignored Record evidence that established that Mrs. DeVito's actions impacted her professional duty to evaluate teachers, caused the Clear Fork Teachers' Association to demand a personnel file investigation, and negatively impacted the teachers whose signatures were used without their knowledge and approval. The Board finds the sincere testimony of several of its veteran teachers sufficiently affects the school community.

Lisa Thorne has been a teacher for Clear Fork Valley for 22 years. (FOF 448). The Record reflects that Mrs. Thorne was "shocked" and "disappointed" when she reviewed her Evaluation Cycle Form on April 9, 2018, and lost trust in Mrs. DeVito because of the way in which her Evaluation Cycle Form was prepared. (TR. PG. 2313.)

Katie Carney has been a Clear Fork Valley teacher for the last seven years. (FOF 460). The Record reflects that Mrs. Carney was not surprised by what Mrs. DeVito had done to the Evaluation Cycle Forms because she was the one who saw Mrs. DeVito making copies and found the cut out observation form on the copy machine. (Tr. 2404-2406). As a result of what had occurred, Mrs. Carney lost respect for the evaluation process after what Mrs. DeVito had done. (Tr. 2381).

Susan Phillips Fitzgerald, has been a teacher in Clear Fork since 2000. (FOF 433). The Record reflects that Mrs. Fitzgerald found that "it was very upsetting" to see a copy of the signature portion of her Teacher Formal Observation form attached to her Evaluation Cycle Form when she reviewed her personnel file on April 9, 2018. TR. PP. 2269-2270. Ms. Fitzgerald felt that attaching the signature portion of her Teacher Formal Observation form to her Evaluation Cycle Form did not convey an accurate representation of her personnel file because the Evaluation Cycle Form provided additional information not found on the Teacher Formal Observation form. (TR. PP. 2287-2288).

Lynelle Leedy has been a Bellville Kindergarten Teacher for 20 years. (FOF 453). The Record reflects that Ms. Leedy was confused when she saw her Cycle Evaluation Form for the first time on April 12, 2018, "because I had not seen that portion before on the side" of her Cycle Evaluation Form. Ms. Leedy was concerned that the Cycle Form might not be complete as it exists in her personnel file. She testified that she was disappointed and

lacked trust because she considered the Evaluation Cycle Form to be an official document." TR. PP. 2368, 2370.

The Record further demonstrates that Mrs. DeVito's actions impacted the Clear Fork Valley Teachers' Association who, after bringing their concerns about the cut out Formal Observation Form that was found on the copy machine at Bellville Elementary to the Superintendent on March 22, 2018, demanded a personnel file investigation of every Bellville teacher concerned that the teachers' personnel files contained inaccuracies, erroneous information, and altered documents." (FOF 59, FOF 60).

The Board finds sufficient Record evidence to demonstrate that Mrs. DeVito's actions reflected conscious wrongful behavior which caused a disruption to District's operations, was sufficiently hostile to the school community, and the evaluation process as Mrs. DeVito had a professional duty and obligation to obtain the teachers' original signatures on the Evaluation Cycle Form and was performing her duties as Principal when she prepared the Evaluation Cycle Forms.

For the reasons set forth herein and using the Referee's definitions of the terms "dishonest," "fraudulent," and "immoral," the Board finds that Mrs. DeVito's use of teachers' signatures without their knowledge and approval was dishonest, fraudulent and immoral behavior warranting good and just cause for termination.

NOW THEREFORE BE IT RESOLVED that for the reasons elaborated herein, the Board finds good and just cause in accordance with R.C. § 3319.16 to terminate the employment of Kirsten DeVito for the following reasons, each instance standing alone, constitutes good and just cause:

1. Mrs. DeVito's conduct of asking Mrs. Brown to sign a 2016-2017 evaluation form which had a blank narrative summary was dishonest, fraudulent and immoral behavior, and is therefore good and just cause to terminate Kirsten DeVito's contract.
2. Mrs. DeVito's concealment of the truth when she failed to record the ending time of Ms. Koch's November 14, 2017 formal observation was dishonest, fraudulent and immoral behavior, and is therefore good and just cause to terminate Kirsten DeVito's contract.
3. Mrs. DeVito's concealment of the truth when she recorded overlapping November 16, 2017 observation times on separate evaluation forms for Mr. Bean and Ms. Kahl was dishonest, fraudulent and immoral behavior, and is therefore good and just cause to terminate Kirsten DeVito's contract.
4. Mrs. DeVito's concealment of the truth when she recorded a five-minute December 4, 2017 observation time of Ms. Gerhardt was dishonest, fraudulent and immoral behavior, and is therefore good and just cause to terminate Kirsten DeVito's contract.

5. Mrs. DeVito's concealment of the truth when she recorded an inaccurate end time for her walkthrough of Ms. Mayer's classroom on February 15, 2018 was dishonest, fraudulent and immoral behavior, and is therefore good and just cause to terminate Kirsten DeVito's contract.

6. Mrs. DeVito's concealment of the truth when she recorded inaccurate end and start times for her February 15, 2018 observation of Ms. Carper was dishonest, fraudulent and immoral behavior, and is therefore good and just cause to terminate Kirsten DeVito's contract.

7. Mrs. DeVito's cutting and taping/stapling teacher signatures without their knowledge or approval violated Board Policy AFC-1 and GCN-1, and is therefore good and just cause to terminate Kirsten DeVito's contract.

8. Mrs. DeVito's use of teachers' signatures without their knowledge or approval constituted dishonest, fraudulent, and immoral behavior to warrant good and just cause to terminate Kirsten DeVito's contract.

BE IT FURTHER RESOLVED that the employment contract of Kirsten DeVito is hereby terminated effective at 12:01 a.m. on February 12, 2021.

BE IT FURTHER RESOLVED that the Board authorizes and directs the Treasurer to provide Mrs. DeVito with written notice by certified mail of this action terminating her contract which shall include a full-text copy of this Resolution and Order of Termination. The Treasurer is further authorized and directed to simultaneously furnish a copy of the written notice to Mrs. DeVito's legal counsel.

BE IT FURTHER RESOLVED that it is hereby found and determined that all formal action of the Board of Education concerning and relating to the adoption of this Resolution were adopted in an open meeting of the Board, and that all deliberations of the Board and any of its committees that resulted in such formal action were open to the public when required by law, in full compliance with the law.

<b>The vote was:</b>	<b>Mr. Gonzalez</b>	<b>Yes</b>	<b>Mrs. McKee</b>	<b>Yes</b>
	<b>Mr. Knuckles</b>	<b>Yes</b>	<b>Mr. McCue</b>	<b>Yes</b>
	<b>Mrs. Weekley</b>	<b>Yes</b>		



## EMPLOYMENT OF BRADD STEVENS

**2021-050** **Upon Motion** by Mrs. McKee and seconded by Mrs. Weekley, the Board approved the Treasurer's contract effective August 1, 2021.

Mr. Carl Gonzalez questioned the compensation and a brief discussion about the Treasurer's performance and fairness of the contract occurred between Mr. Gonzalez, Mr. McCue and Mr. Knuckles.

The vote was:	Mrs. Weekley	Yes	Mrs. McKee	Yes
	Mr. McCue	Yes	Mr. Gonzalez	Yes
	Mr. Knuckles	Yes		

## ADMINISTRATIVE SALARY SCHEDULE

**2021-051** **Upon Motion** by Mrs. McKee and seconded by Mrs. Weekley, the Board amended the Administrative Salary Schedule beginning with the 2021/2022 school year.

The vote was:	Mrs. Weekley	Yes	Mrs. McKee	Yes
	Mr. McCue	Yes	Mr. Gonzalez	Yes
	Mr. Knuckles	Yes		

## TREASURER'S RECOMMENDATIONS

**2021-052** **Upon Motion** by Mr. Gonzalez and seconded by Mr. McCue, the Board dispensed with bidding procedures required by Board policy and Ohio Revised Code Section 3313.46 based on urgent necessity and for the safety and protection of school property and approve the replacement of heating boiler at Bellville Elementary School, the cost of which is estimated at \$18,500.

The vote was:	Mrs. McKee	Yes	Mr. Gonzalez	Yes
	Mr. Knuckles	Yes	Mr. McCue	Yes
	Mrs. Weekley	Yes		

## SUPERINTENDENT'S RECOMMENDATION

**2021-053** **Upon Motion** by Mr. Knuckles and seconded by Mrs. Weekley, the Board accepted the following resignations as of February 11, 2021:

Diane Pyle                      Hourly Cafeteria Employee

The vote was:	Mrs. McKee	Yes	Mr. Gonzalez	Yes
	Mr. Knuckles	Yes	Mr. McCue	Yes
	Mrs. Weekley	Yes		

**2021-054** **Upon Motion** by Mr. McCue and seconded by Mr. Knuckles, the Board, pursuant to Ohio Revised 3319.40, effective immediately, suspended the following personnel during the pendency of the criminal actions against them:

Jodi Kline                      Cafeteria Manager

Suzanne Keller      Food Service Cashier / Bus Driver

The vote was: Mrs. McKee    Yes                      Mr. Gonzalez    Yes  
                    Mr. Knuckles    Yes                      Mr. McCue        Yes  
                    Mrs. Weekley    Yes

**2021-055**      **Upon Motion** by Mrs. Weekley and seconded by Mr. McCue, the Board adjourned from Special Session at 7:05 PM.

The vote was: Mrs. McKee    Yes                      Mr. Gonzalez    Yes  
                    Mr. Knuckles    Yes                      Mr. McCue        Yes  
                    Mrs. Weekley    Yes

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Gary McCue, Board President

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Bradd Stevens, Treasurer