



LAW OFFICES OF
RILEY & RILEY

EXECUTIVE COURT
2 Eves Drive, Suite 109
Marlton, NJ 08053
Mailing Address

(609) 914-0300
(609) 914-0323 FAX

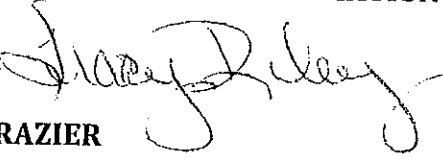
BY APPOINTMENT
1616 Pacific Avenue, Suite 305
Atlantic City, NJ 08401

Michael E. Riley
Tracy L. Riley
Daria B. Janka
John P. Montemurro, Of Counsel

WORKERS' COMPENSATION
3 Eves Drive
Marlton, NJ 08053

MEMORANDUM

TO: BOARD MEMBERS, ATLANTIC CITY BOARD OF EDUCATION

FROM: TRACY L. RILEY, SOLICITOR 

RE: INVESTIGATION - KAYAN FRAZIER

DATE: OCTOBER 26, 2020

This report is to supplement the questions posed by the Board President and information previously submitted to you for the Board Meeting held on October 13, 2020. The Board voted on Tuesday, October 20th to have an independent investigation conducted by outside counsel, the State Monitor has advised me to cease my investigation. Since I am unable to complete my investigation, I did want to provide you with the information that I have acquired.

I. EMPLOYMENT OF SUBSTITUTE TEACHERS

The Atlantic City Board of Education maintains a policy on the Employment of Substitute Teachers - Policy 3125.2. A provision of the policy:

"All substitute teachers must possess a substitute credential issued by the New Jersey Board of Examiners in accordance with the provisions of NJAC 6A:9B-7.1 et seq. All substitute teachers are required to undergo a criminal history record check in accordance with the provisions of NJS 18A:6-7.1 et seq. and New Jersey Department of Education regulations and procedures for criminal history record checks." (Exhibit A)

On March 30, 2015, the Atlantic City Board of Education approved Kayan Frazier as a substitute staff member for the 2014/2015 school year. (Exhibit B) At the time of this approval by the Board, Frazier's New Jersey Department of Education criminal history record processing had been completed. This notification dated March 4, 2015 by the State of New Jersey, Criminal History Review Unit, advised that Frazier was approved for school employment. (Exhibit C) On March 31, 2015 the Atlantic County Superintendent of Schools certified that Kayan Frazier was entitled to act as a substitute teacher for grades N-12 in the public schools of New Jersey. (Exhibit D)

Based on the above and the attached, the Atlantic City Board of Education complied with the policy when Kayan Frazier was hired.

II. KAYAN FRAZIER'S HOME ADDRESS

On July 3, 2019, a criminal complaint was issued to Kayan Frazier. (Exhibit E) Based on allegations contained in Count 3 of the Complaint – Production of Child Pornography, an issue of concern that has been raised is where Kayan Frazier residing at that time. Count 3 of the Complaint specifically sets forth the time period of March 2017 to on or about April 15, 2019. At the time, the criminal background was complete, and the notification issued on March 4, 2015 by the NJ Department of Education Criminal History Review Unit, Frazier resided at 116 Presbyterian Avenue, Atlantic City. This is the home address of Dr. La'Quetta Small.

On December 3, 2015, Kayan Frazier submitted an email to the District changing his home address. The email utilized was frazier2@go.stockton.edu. Frazier was now residing at 2200 Hamilton Avenue, Apartment A, Atlantic City, NJ. (Exhibit F)

The Atlantic City Board of Education is required to issue W-2 Wage and Tax Statements to each employee and to the Internal Revenue Service at the end of the year. The Atlantic City Board of Education issued a W-2 Kayan Frazier for the years of 2015 and 2016. Each of these Wage and Tax Statements indicate Kayan Frazier's address as 2200 Hamilton Avenue, Apartment A, Atlantic City, NJ. (Exhibit G – with redacted Social Security Number)

Based on the above and the attached, Kayan Frazier was no longer residing in Dr. Small's home as of December 3, 2015.

III. REPORTING OF KAYAN FRAZIER BY ATLANTIC CITY SCHOOL DISTRICT STAFF

On February 24, 2017, Dr. La'Quetta Small made a report to Agent #1388 at DYFS/DCP&P. Dr. Small also completed a Source4Teachers Incident Report Form. The nature of the complaint listed is "Unprofessional Conduct". The contents of the complaint are as follows:

"It was brought to my attention on Feb. 12th that Kayan Frazier invited a third grade male student to his home to spend the night. Also, on Feb. 13th Mr. Frazier visited the school to transport the student back to his home. I advised Mr. Frazier that those two actions are inappropriate and he should not allow the child to remain in his home. Additionally, I advised him that the mother must authorize him to transport her son in his personal vehicle. However, I learned on February 23rd that Mr. Frazier continues to allow the student to remain in his home. The mother is okay with his actions, however, she has not provided documentation to the school to authorize transportation. The mother expressed to me that Mr. Frazier mentors her son and helps out. **My concern is related to the New Jersey Statutes regarding inappropriate staff conduct.**" (Exhibit H - emphasis added.)

The Atlantic City Board of Education maintains a policy on Inappropriate Staff Conduct - Policy 4281. A provision of the policy:

"School staff's conduct in completing their professional responsibilities shall be appropriate at all times. School staff shall not make inappropriate comments to pupils or about pupils and shall not engage in inappropriate language or expression in the presence of pupils. School staff shall not engage in inappropriate conduct toward or with pupils. School staff shall not engage or seek to be in the presence of a pupil beyond the staff member's professional responsibilities. School staff shall not provide transportation to a pupil in their private vehicle or permit a pupil into

their private vehicle unless there is an emergency or a special circumstance that has been approved in advance by the Building Principal/immediate supervisor and the parent/legal guardian.” (Exhibit I)

Despite having contacted the student’s mother, Dr. Small still had concerns that Frazier had violated the Inappropriate Staff Conduct Policy. Based on the written submission by Dr. Small to Source4Teachers, there were two violations of the above policy. The *first violation*, school staff shall not engage or seek to be in the presence of a pupil beyond the staff member’s professional responsibilities. Frazier was allowing a Pennsylvania Avenue School student to stay at his home. The *second violation*, Frazier was transporting an Atlantic City School student in his personal vehicle. (Exhibits H & I)

Jeff Belz, Esquire, attorney for ESS (formerly Source4Teachers) sent me an email including the incident report completed by Dr. La’Quetta Small on February 24, 2017. (Exhibit J) The report is identical to the one previously provided. (Exhibit H) Specifically, Mr. Belz advises in this email, “Reporters on this incident portal have several options to choose for recommendations, from “provide warning” to “remove from district”. Dr. Small’s recommendation on February 24, 2017 – **“Remove from school”**.”

The Inappropriate Staff Conduct Policy also provides a provision for reporting to the Superintendent:

“Reports may be made in writing or with verbal notification. The immediate supervisor or Building Principal will notify the Superintendent of Schools of all reports, including anonymous reports. The Principal or Designee will investigate all reports with a final report to the Superintendent of Schools. The Principal or Designee or the Superintendent may, at any time after receiving a report take such appropriate action as necessary and as provided for in the law. This may include, but is not limited to, notifying law enforcement, notifying the New Jersey Department of Children and Families in accordance with NJAC 6A:16-11.1 and/or any other measure provided for in the law.” (Exhibit I)

During the time from of 2015 – 2017, there have been different Superintendents for the district.

Donna Haye – retired May 31, 2015

Barry Caldwell – Interim Superintendent – June 1, 2015 – June 30, 2015

Paul Spaventa – Interim Superintendent – July 1, 2015 – April 30, 2017

Barry Caldwell – Acting Superintendent – May 1, 2017 – July 18, 2017

Barry Caldwell – Superintendent

Paul Spaventa was the Interim Superintendent at the time of the reporting by Dr. Small. I contacted Mr. Spaventa by telephone on October 14, 2020 at 11:49 a.m. Mr. Spaventa indicated the name Kayan Frazier sounded familiar, but he had no independent recollection of the reporting to him by Dr. Small.

The Inappropriate Staff Conduct Policy also states:

“School personnel, compensated and uncompensated (volunteers), are required to report to their immediate supervisor or Building Principal any possible violations of this Policy. In the event the report alleges conduct by the Building Principal or the immediate supervisor, the school staff member may report directly to the Superintendent. In addition, school personnel having reasonable cause to believe a pupil has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under NJSA 9:6-8.10 are required to immediately report to the New Jersey Department of Children and Families in accordance with NJAC 6A:16-11.1 and inform the Building Principal or immediate supervisor after making such report.”
(Exhibit I)

Consistent with the policy, Dr. Small reported her concerns to DYFS/DCP&P on February 24, 2017.

On October 15, 2020, I sent a letter to the Atlantic County Prosecutor’s Office inquiring as to whether or not any employee from the Atlantic City Board of Education ever reported any form of abuse by Kayan Frazier for the time frame of February 2017 – March 2017. (Exhibit K) On October 21, 2010, Chief Assistant Prosecutor, John M. Flammer responded to my request as follows:

“On March 16, 2017 our office received a report from the State of New Jersey Department of Children and Families regarding a referral they received on February 24, 2017 from an Atlantic City School District employee that expressed concerns with Kayan Frazier’s interactions with a student. Further investigation conducted by the Department’s Institutional Abuse Investigations Unit found no evidence of abuse or neglect. Additionally, the student did not disclose any information warranting further investigation by this office and the matter was closed.” (Exhibit L)

This letter from the Atlantic County Prosecutor’s Office confirms that a referral was received by DYFS/DCP&P on February 24, 2017. This letter also confirms the investigation revealed at that time, there was no evidence of abuse or neglect.

Based on the above and the attached, Dr. La’Quetta Small complied with the Atlantic City Board of Education Policy 4281 – Inappropriate Staff Conduct, by reporting Kayan Frazier’s actions to DYFS/DCP&P. I have not obtained any written reports by Dr. Small to Paul Spaventa. However, the investigation was not conducted in-house by Dr. Small. The matter was referred to DYFS/DCP&P who are the appropriate individuals to determine if there is child abuse or neglect. The same agency that hired Kayan Frazier eight months after Dr. Small made her report.

IV. NOTIFICATION TO SOURCE4TEACHERS

As you are aware, I requested from ESS (formerly Source4Teachers) the work history of Kayan Frazier in Atlantic City Schools. Kayan Frazier had not been assigned as a substitute teacher by Source4Teachers at Pennsylvania Avenue School since December 12, 2016. However, he was working within other schools within the district.

During our special meeting of October 13, 2020, Mr. Belz represented that once the complaint was received by ESS Kayan Frazier was terminated. This is not accurate.

Dr. Small completed a Source4Teachers Incident Report and submitted same to the company on February 24, 2017. The nature of the complaint is indicated above and is attached as Exhibit H. In this same submission, Dr. Small makes the recommendation of

“Remove from school.” Kayan Frazier is sent to the following schools as a substitute teacher after this complaint is made:

March 1, 2017	Uptown Complex
March 2, 2017	Uptown Complex
March 3, 2017	Sovereign Avenue School
March 6, 2017	Dr. Martin Luther King Jr. School
March 7, 2017	Texas Avenue School
March 8, 2017	Sovereign Avenue School
March 10, 2017	Sovereign Avenue School
March 13, 2017	Texas Avenue School

(Exhibit M)

On March 15, 2017, Dr. La’Quetta Small sent a confirming email to Wesley Wallace, District Manager, Source4Teachers. In this email, Dr. Small advises Mr. Wallace that she spoke to Jamie Guenther at Source4Teachers and advised her that a child is still spending the night at Frazier’s home and it is inappropriate. Dr. Small also indicates in this email the child and Frazier are sleeping in the same bed. (Exhibit N) This is a fact that was known to DYFS/DCP&P when conducting their investigation. (Exhibit E, Page 10, Point 19a)

District Manager, Wesley Wallace sent Dr. Small an email on March 15, 2017. Dr. Small had reported another incident to Source4Teachers in which Kayan Frazier was texting a student. (Exhibit O)

Despite the additional reporting by Dr. Small, Kayan Frazier continued to be put into Atlantic City Schools as a substitute teacher on the following dates:

March 17, 2017	Richmond Avenue School
March 21, 2017	Brighton Avenue School
March 22, 2017	Sovereign Avenue School
March 23, 2017	Richmond Avenue School
March 24, 2017	Richmond Avenue School

(Exhibit M)

A copy of the IAIU Findings Report was provided to me by Jeff Belz, Esquire. Due to the confidential nature of the report, I have not provided a copy to you. However, based on the representations in the report, Kayan Frazier was terminated by Source4Teachers on April 3, 2017.

The Board recently approved by Resolution hiring ESS (formerly Source4Teachers) to provided substitute teaching staff in the district. A contract has been provided by ESS for signature. I am advising the Board this contract needs to be discussed due to future liability on the district.