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Theodore D. Smith

New York, New York 10022
June 11, 2007

E-mail

Ms. Yvonne Joseph, Administrator
Medical Bureau, NYC Department of Education
65 Court Street, Room 102
Brooklyn, New York

Dear Ms. Joseph:

Please give a copy of this letter with documents to the physician who I will be seeing this morning, and also place this letter with enclosures in my medical file.

I have been in the reassignment center since September of 2005. As explained later on, I have had an unblemished record for 10 years, and in 2004-05 when I had severely oversized classes and an illegal program I complained, and I was then charged with incompetence among other charges.

A 3020@ hearing commenced in January, 2007, and after twelve hearings the Arbitrator recused himself, since he stated he had made certain comments that caused me to believe he was biased. As the enclosed transcript of the May 10, 2007 conference call states, the Arbitrator without hearing my testimony or that of my witnesses wanted me to take a 3 to 6 month suspension .

On May 18, 2007, I received a letter from Michael LaForgia, dated May 11, 2007 regarding a request for a psychiatric evaluation stating that I made verbal threats to my attorney about the Arbitrator. This is absolutely false.

On May 10, 2007 there was a conference call in which the arbitrator, Jack Tillem recused himself from my 3020a hearing based on a letter written to him on May 3, 2007.(enclosed) He explained my concerns that he prejudged the case, and stated "Therefore I am going to recuse myself so that he can have another arbitrator restore his confidence in the process. And that is my statement at this time. I'm sorry about it. We spent a lot of time on this case but I -- I don't see any other alternative".

Following his recusal there were three (3) off the record discussions which **did not** include me. The first was by Terry Europe, the Deputy Counsel to the Chancellor, she did not say with whom she spoke, the second was with Ms. Europe and Mr. Kearney, and the

third with Ms. Europe, Mr. Tillem, and Mr. Kearney. It is noteworthy that the third off the record discussion do not have the statements in the record in which Mr. Kearney asked to go off the record with Mr. Tillem and Ms. Europe. This omission on the third page of the enclosed transcript is indicated as page 1063, following line 9. There were other statements that were omitted from the transcript. As the transcript shows, following line 9, Mr. Kearney then stated to Mr. Tillem....."some decisions have been made.....he's (Mr. Tillem) going to have to amend what he said on the record previously". Mr. Tillem then changed is testimony and said....."and I don't really think that at this point I wish to continue as the arbitrator in light of these threats". This after he recused himself for the reasons of my May 3, 2007 letter to him and stated that he was sorry about this, and wanted my confidence restored in the process. Ms. Europe then threatened me with possible further charges. Everyone hung up immediately and I had no opportunity to respond.

I e-mailed Ms. Europe on May 10, 2007 and May 14, 2007 (enclosed) asking to meet with her and an investigator. She did not respond. While I know that the Department of Education has their own rules, one's due process and basic rights are not a part of their rules. This continued harassment against me is simply horrible and has been very stressful.

Mr. Kearney totally lacks in credibility, and it appears these off the record discussions also casts a bad light on the DOE.

On May 23, 2007, Mr. Kearney filed a ninety eight (98) paragraphs affirmation, "duly sworn according to the law, swears and affirms, under the penalty of perjury" to The Honorable Naomi Reice Buchwald a United States District Judge re: Smith v. New York City Department of Education.

I specifically wish to refer to a number of statements that he made that are false and which the DOE know are false. He states that about April 18, and April 23, 2007 it came to his attention that while he was thoroughly searched and was "virtually strip searched" each and every time he entered the building where the hearings were heard, I was able to by-pass security by virtue of my DOE identification "Board ID" and that the DOE informed him they have "no control over security". First, I do not have a "Board ID" and I did not have one at the time I attended the hearings. I went through security each time I entered the building. Mr. Kearney continues to tell egregious lies.

He then goes on to say in his affirmation that his request that I pass through security was redirected to Terry Europe who told him his request was "impossible" to honor and the denial came "directly from the Chancellor". He stated that Ms. Europe asked whether I threatened one of the attorneys. He said I did not. Please note there hasn't been one word to the DOE regarding any threats made to the Arbitrator at this point.

On May 9th, 2007, after going to twelve (12) hearings and one day before the final hearing, Mr. Kearney stated in his affirmation that he told the Arbitrator that I threatened to kill him, but he had said nothing previously since he did not see the threat as credible.

Obviously the Arbitrator was not impressed with Mr. Kearney's statement on May 9th, did not believe I was a threat to him and said that he was going to recuse himself based on my May 3, 2007 letter as stated by Mr. Kearney. Indeed that is exactly what the Arbitrator did.

Mr. Kearney also stated that Susan Jalowski, his adversary, was unavailable on May 10th, for the conference call. The transcript shows this to be another untruth. He then claims that Ms. Europe told him, "we want to terminate him"(Ted Smith), and Kearney claims the "entire fiasco developed only because she (Ms. Europe) refused to take his very real concerns about safety and security seriously.

Mr. Kearney's statements are absolutely false. The DOE has acted on Kearney's statements and therefore the DOE relying on Mr. Kearney is without justification.

I am also enclosing medical letters from Dr. Steven Scheidt, and Dr. Joseph Ament. In addition I was sent for a medical examination in June, 2005 for my atrial fibrillation and was found to be fit. The report should be in my medical file.

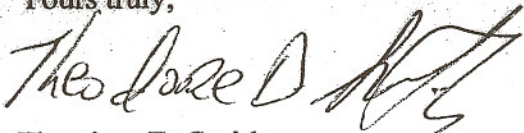
Until I worked at the Museum School in 2004-05 I had never received a U rating or an unsatisfactory observation. My record of 10 years was unblemished.

I was in an illegal program alone with over 100 students which the Principal testified to and up to 67 students, grades 7 - 12, with little or no assistance. I complained and was charged with incompetence among other charges, and Mr. Kearney in his affirmation stated that the Arbitrator had problems with the Principal's testimony, her credibility.

Also, for the past twelve years I have worked in an after school program for the United Nations. At the hearing, the Director of the United Nations program testified on my behalf as did many others from the DOE with whom I worked with prior to 2004.

It is my wish to go back to work, and to stop being harassed, which is very stressful.

Yours truly,



Theodore D. Smith

Enclosures

Cc: Medical File
Joel Klein, Chancellor
Dan Acosta, UFT