

APPENDIX TABLE OF CONTENTS

OPINIONS AND ORDERS

Opinion of the United States Court of Appeals for the Sixth Circuit (August 27, 2019).....	1a
Judgment of the United States Court of Appeals for the Sixth Circuit (August 27, 2019)	16a
Memorandum Opinion of the United States District Court for the District of Tennessee (November 19, 2018)	18a
Judgment of the United States District Court for the District of Tennessee (November 19, 2018)	38a

COMMUNICATIONS BETWEEN SCHOOL SYSTEM AND COACH SENSABAUGH

Text Messages Between Coach Sensabaugh and Director Halliburton (September 22, 2017).....	40a
Text Messages Between Coach Sensabaugh and Principal Wright (September 22, 2017).....	41a
Text Messages Between Coach Sensabaugh and Mayor Eldridge (September 22, 2017).....	43a
Text Messages Between Coach Sensabaugh and Director Halliburton (September 24, 2017).....	45a
Text Messages from Becky Campbell of Local Media to Coach Sensabaugh (September 25, 2017).....	46a
Letter of Guidance from Peggy Wright to Coach Sensabaugh (October 5, 2017)	47a

APPENDIX TABLE OF CONTENTS (Cont.)

SCHOOL SYSTEM DOCUMENTS

Separation Practices for Non Certified Employees	52a
Engagement Letter of Ensley Baker Shade (October 9, 2017)	54a
Comptroller's Investigative Report (May 21, 2018)	57a

SOCIAL MEDIA POSTS

Social Media Posts: Josh Kite and Kimber Halliburton (January 2017-April 2017)	63a
Social Media Posts: Kimber Halliburton, Principal Combs, Peggy Wright, and Jonesboro Elementary (September 22, 2017) ..	68a
Sensabaugh Facebook Post (September 22, 2017).....	86a
Sensabaugh Facebook Post (September 24, 2017).....	90a

OPINION OF THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT
(AUGUST 27, 2019)

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

937 F. 3d 621

GERALD SENSABAUGH,

Plaintiff-Appellant,

v.

KIMBER HALLIBURTON,
Individually and in Her Official Capacity
as Director of Schools; WASHINGTON COUNTY
BOARD OF EDUCATION,

Defendants-Appellees.

No. 18-6329

Appeal from the United States District Court
for the Eastern District of Tennessee at Greeneville.

No. 2:18-cv-00011—
Pamela Lynn Reeves, Chief District Judge.

Before: ROGERS, BUSH, and LARSEN,
Circuit Judges.

LARSEN, Circuit Judge.

Gerald Sensabaugh, the former head football coach at David Crockett High School in Washington County, Tennessee, made two Facebook posts expressing his concerns about the conditions and practices of schools within the Washington County School District. He claims that he was fired as a result. He sued School Director Kimber Halliburton, raising a First Amendment retaliation claim, and the Washington County Board of Education (the Board), raising a municipal liability claim. The district court granted summary judgment to Halliburton because Sensabaugh had failed to show that Halliburton had violated his constitutional rights. And because Sensabaugh had failed to establish an underlying constitutional violation, his municipal liability claim against the Board also failed. For the reasons stated, we AFFIRM.

I.

Sensabaugh became head football coach at David Crockett High School in 2017. The school is within the Washington County School District and is overseen by the Board. Halliburton is the Director of Schools for the Washington County School District. Sensabaugh's immediate supervisor was Athletic Director Josh Kite, and his ultimate supervisor was Principal Peggy Wright.

On September 22, 2017, Sensabaugh visited an elementary school within the district. The visit was unrelated to his job. After the visit, Sensabaugh posted on Facebook, decrying the conditions of the elementary school. His post included photos of the classroom, and one photo showed the faces of several students. Upon seeing the post, the elementary school principal contacted the district's Director of Human Resources, Susan Kiernan; the principal relayed his

concern that the posts might violate the law or school policy because the school might not have obtained parental consent to show the students' faces. Kiernan relayed these concerns to Wright and Halliburton.

Halliburton, believing "that the public posting of a photo showing a child's face could be violative of both the [Board's] policy and the Family Educational Rights and Privacy Act," contacted the Board's attorney, Thomas Seeley. Wright and Halliburton tried to call Sensabaugh to "instruct him to immediately remove any photo showing a child's face—but not any posts or other content." But Sensabaugh did not answer the calls. Halliburton did briefly communicate with Sensabaugh by text message that evening. So did Wright, whose text told Sensabaugh to remove the photos from Facebook. Sensabaugh did not comply.

Two days later, Sensabaugh again posted on Facebook; this post discussed his concerns with prisoners working at the high school. Halliburton texted Sensabaugh after reading the post, telling him: "I see you've posted something else before knowing all the facts. Uncertain why you are not taking my calls. I really would like to speak to you." Later that day, Wright and Halliburton spoke with Sensabaugh on the phone. According to Halliburton:

Wright and I spoke to Sensabaugh by phone, and attempted to address the safety concerns that Sensabaugh raised and again requested that he remove any photo(s) of the Jonesborough Elementary School children from Facebook; we advised Sensabaugh that he did not need to take down the post, just the photo(s) of the students. . . . During this phone conversation, Sensabaugh yelled at us and

told us that he was not taking the photo down. Then, he hung up on us.

Wright recounted the telephone call similarly, noting that Sensabaugh “repeatedly interrupted us and he yelled at us” and that “Halliburton and I could not believe that Sensabaugh would speak to his supervisors in this manner.” Halliburton also explained, “During my more than fifteen years as a supervisor[] in the education field, I have never had an employee speak to me the way that Sensabaugh spoke to Wright and me in that September 24, 2017 phone call.” Sensabaugh explained the conversation as follows:

It was a very heated phone conversation and Director Halliburton and Principal Wright threatened me with my job as head football coach. Director Halliburton and Principal Wright both told me that they “could make it where I would never coach football again anywhere.”

After the conversation, Sensabaugh sent a text message to Halliburton that read: “Just let me know the next step. Fire me or deal with it.”

Based on Sensabaugh’s conduct during the phone call, Halliburton consulted attorney Seeley on how to proceed with “some level of corrective action.” Although Halliburton wanted to fire Sensabaugh, Seeley recommended “a letter to address the issues with him and give him a chance to correct his behavior.” Wright and Halliburton drafted a Letter of Guidance, which addressed not only Sensabaugh’s failure to remove the photos from Facebook and his conduct during the phone call, but other alleged misconduct, including his use of profane language with students and his requir-

ing a student to practice while injured. The letter again directed Sensabaugh to remove the photos from Facebook but stated, “At no time did we ask you to delete any of your comments or opinions on social media. You have the right to comment on matters of public interest on social media.” The letter concluded, “Failure to follow my directives may lead to discipline up to and including termination as our football coach.” After receiving the letter, Sensabaugh removed the photos from Facebook.

Wright gave Sensabaugh the Letter of Guidance at a meeting on October 6, 2017, during which Wright claims that Sensabaugh “became agitated and began pacing back and forth. As the meeting progressed, he became belligerent and confrontational.” According to Wright, “Sensabaugh interrupted my attempt to read him the letter, but ultimately let me finish reading it.” “At the meeting, Sensabaugh “accused his immediate supervisor, [Athletic Director] Kite, of coming to work ‘high’ on the prescription medication, Oxycodone.” Wright stated, “Sensabaugh threatened to expose Kite to the media if we took any further action related to Sensabaugh’s conduct.” At this same meeting, Sensabaugh also claimed knowledge of a student’s having brought a gun to school. In a subsequent interview, Sensabaugh stated that the claim was hypothetical and meant to illustrate that allegations of wrongdoing are easy to make but difficult to prove. However, Sensabaugh acknowledged having heard an unsubstantiated rumor that a student brought either a shotgun or BB gun to school. Wright later explained: “I was very concerned that Sensabaugh waited until his own conduct was being addressed to bring up something that should have been reported immediately.”

After the Letter of Guidance meeting, Sensabaugh went straight to the cafeteria where he confronted an athletic trainer and the injured student whom Sensabaugh had allegedly forced to practice. Later that night, Sensabaugh allegedly directed profanity toward his football players during a game, in direct violation of the Letter of Guidance. And Sensabaugh allegedly went around proclaiming “loudly so that everyone around, including students, could hear: ‘Josh Kite has a drug problem and has offered me Oxycodone. He carries it around the school and I don’t care who hears me.’” During a later independent investigation, Sensabaugh denied having directed profanity at the students that night and making such statements about Kite.

Sensabaugh’s conduct following the Letter of Guidance meeting prompted Wright to contact attorney Seeley to report her concern “that Sensabaugh posed a threat to the safety of the students and staff.” Although Wright initially wished to fire Sensabaugh, she and Halliburton ultimately agreed with Seeley’s recommendation to instead issue a Letter of Reprimand. The Letter of Reprimand recounted the incidents leading up to its issuance, placed Sensabaugh on administrative leave pending a full investigation by an independent law firm, and warned Sensabaugh that termination of his employment was possible. Wright testified that “Sensabaugh was extremely rude and insubordinate” when she read him the Letter of Reprimand and explained that “[i]f Sensabaugh w[ere] not already being suspended and investigated, [she] would have immediately recommended his termination based upon his conduct.”

An independent law firm painstakingly investigated the alleged misconduct, interviewing “seventeen different witnesses who were identified as potentially having relevant knowledge or information” and reviewing scores of documents and text messages. This included a lengthy interview with Sensabaugh. The investigators concluded that Sensabaugh had used profanity and had failed to follow instructions to remove the photos from Facebook until after the Letter of Guidance meeting. They determined that Sensabaugh had been unprofessional and insubordinate during the Letter of Guidance and Letter of Reprimand meetings as well as, afterward, in his retaliation against the athletic trainer and student-athlete in the cafeteria. And they found the allegations of Sensabaugh’s failure to report safety concerns and to follow orders regarding practicing injured players partially substantiated. The investigators’ report concluded:

[W]e find that Sensabaugh engaged in unprofessional, insubordinate, threatening and retaliatory behavior towards supervisors, staff, and students. Further, we find that Sensabaugh’s actions and statements intimidated, demeaned, and undermined both his co-workers and his supervisors. We find that, in light of this conduct, Principal Wright was justified in placing Sensabaugh on administrative leave on October 10, 2017.

Moreover, it is inconceivable to these investigators that anyone could repeatedly speak to his or her supervisors and co-workers in such a belligerent and confrontational manner and still expect to maintain an employment rela-

tionship. Furthermore, we believe that Sensabaugh's lack of civility and failure to treat others with dignity and respect forecloses any possibility of reinstatement. In the investigators' opinions, Sensabaugh's behavior warrants his permanent removal from the position of Head Football Coach at DCHS, and we recommend that Sensabaugh's employment with DCHS be terminated.

While the investigation was ongoing, Sensabaugh filed suit against Halliburton and the Board. Just over a month later, Halliburton notified Sensabaugh that the independent investigators had completed their investigation and had recommended his termination. Halliburton summarized the investigators' findings and recommendation in a letter, but offered the following:

Before I make a final decision regarding your continued employment, I wish to give you every opportunity to respond to Attorney Baker's investigation. . . . I am asking you to provide me with any written statements or other evidence you wish me to consider in your defense, whether in rebuttal to Attorney Baker's findings or in support of a less severe punishment. Alternatively, you may request a meeting with me to present your defense and to explain why I should not terminate you.

Sensabaugh never responded to Halliburton's letter, and Halliburton terminated Sensabaugh's employment on March 15, 2018.

Sensabaugh then amended his complaint to include claims based on his termination. Halliburton moved for summary judgment based on qualified immunity, and the Board moved to dismiss for failure to state a claim. The district court granted the motions, holding that Sensabaugh had not shown a violation of his First Amendment rights, and without an underlying constitutional violation, Sensabaugh's claim against the Board also failed. Sensabaugh appealed.

II.

Sensabaugh argues that Halliburton retaliated against him for exercising his First Amendment right to speak in the form of two Facebook posts. To prevail on his First Amendment retaliation claim, Sensabaugh must show:

- (1) [he] engaged in protected conduct; (2) an adverse action was taken against [him] that would deter a person of ordinary firmness from continuing to engage in that conduct; and (3) there is a causal connection between elements one and two—that is, the adverse action was motivated at least in part by [his] protected conduct.

Bell v. Johnson, 308 F.3d 594, 602 (6th Cir. 2002) (quoting *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999) (en banc)). If he makes this showing, “the burden then shifts to the employer to demonstrate ‘by a preponderance of the evidence that the employment decision would have been the same absent the protected conduct.’” *Dye v. Office of the Racing Comm’n*, 702 F.3d 286, 294 (6th Cir. 2012) (quoting *Eckerman v. Tenn. Dep’t of Safety*, 636 F.3d 202, 208 (6th Cir. 2010)). If the employer makes such a showing, “sum-

mary judgment is warranted if, in light of the evidence viewed in the light most favorable to the plaintiff, no reasonable juror could fail to return a verdict for the defendant.” *Id.* at 294–95 (quoting *Eckerman*, 636 F.3d at 208). Halliburton disputes Sensabaugh’s First Amendment retaliation claim and also asserts qualified immunity. When a state official raises a qualified immunity defense, the plaintiff must show the violation of a clearly established constitutional right. *Harris v. Klare*, 902 F.3d 630, 637 (6th Cir. 2018).

The district court concluded that Sensabaugh could not show that the Letter of Guidance, the Letter of Reprimand, or his termination violated the First Amendment. While there is no dispute that Sensabaugh’s Facebook posts constituted protected speech,¹ the district court determined that the Letters did not constitute adverse actions, and that Sensabaugh could not show any causal connection between the Facebook posts and his termination. We address these conclusions in turn.

A. Letter of Guidance and Letter of Reprimand

Sensabaugh first challenges the district court’s determination that the Letters of Guidance and Reprimand did not constitute adverse actions. To establish an adverse action for First Amendment retaliation purposes, “a plaintiff must show that the action ‘would chill or silence a person of ordinary firmness from future First Amendment activities.’”

¹ Sensabaugh does not contend that the photos he posted to Facebook were protected by the First Amendment or that Halliburton’s request to have the photos removed violated his First Amendment rights.

Benison v. Ross, 765 F.3d 649, 659 (6th Cir. 2014) (quoting *Ctr. for Bio-Ethical Reform, Inc. v. City of Springboro*, 477 F.3d 807, 822 (6th Cir. 2007)). But “[i]t is not necessarily true . . . that every action, no matter how small, is constitutionally cognizable” as an “adverse action.” *Thaddeus-X*, 175 F.3d at 396. In the employment context, “[t]he term ‘adverse action’ has traditionally referred to actions such as discharge, demotions, refusal to hire, nonrenewal of contracts, and failure to promote.” *Dye*, 702 F.3d at 303 (alteration omitted) (quoting *Handy-Clay v. City of Memphis*, 695 F.3d 531, 545 (6th Cir. 2012)).

We agree with the district court that the Letter of Guidance was not an adverse action. The Letter had no detrimental effect on Sensabaugh’s job as head football coach. As the district court noted, “[t]he issuance of the Letter of Guidance did not itself impose any discipline or alter Sensabaugh’s employment conditions in any way.” Instead, it imposed directives that Sensabaugh had to follow to avoid discipline. The Letter expressly permitted Sensabaugh to maintain his First Amendment activities, by keeping the posts on Facebook, and notified Sensabaugh that he could post comments on social media in the future. As such, we cannot conclude that the Letter of Guidance “would chill or silence a person of ordinary firmness from future First Amendment activities.” *Benison*, 765 F.3d at 659.²

² Sensabaugh also argues that Halliburton and Wright’s threat to ensure that he “would never coach football again anywhere” constitutes an adverse action, either separately or when considered in conjunction with the Letter of Guidance. The district court did not consider the threat, perhaps because Sensabaugh’s complaint identified only the Letter of Guidance, the Letter of Reprimand,

The same goes for the Letter of Reprimand. The Letter of Reprimand amounted to a suspension with pay pending investigation by outside counsel. Several panels of this court have determined that a suspension with pay does not constitute an adverse action. *See, e.g., Ehrlich v. Kovack*, 710 F. App'x 646, 650 (6th Cir. 2017) (First Amendment retaliation claim); *Harris v. Detroit Pub. Schs.*, 245 F. App'x 437, 443 (6th Cir. 2007) (same); *Peltier v. United States*, 388 F.3d 984, 988–89 (6th Cir. 2004) (Title VII discrimination claim). Sensabaugh makes no attempt to grapple with this caselaw on appeal; yet it is his burden to show the violation of a constitutional right in order to overcome Halliburton's assertion of qualified immunity. *Johnson v. Moseley*, 790 F.3d 649, 653 (6th Cir. 2015). Sensabaugh has not shown that the Letter of Reprimand constitutes an adverse action.

B. Termination

There is no dispute that Sensabaugh's firing was an adverse action. But the district court found no causal

and his termination as adverse actions. In any event, threats alone are generally not adverse actions for retaliation purposes. *See Hornbeak-Denton v. Myers*, 361 F. App'x 684, 689 (6th Cir. 2010) (citing *Mitchell v. Vanderbilt Univ.*, 389 F.3d 177, 182 (6th Cir. 2004)). Does the threat in conjunction with the Letter of Guidance make the Letter an adverse action? It does not. Despite any statements made during a "heated" phone conversation, the Letter of Guidance, issued a few days later, would have had no detrimental effect on Sensabaugh's job, provided that he complied with reasonable requests related to his professionalism and unrelated to the Facebook posts. Accordingly, even considering the Letter of Guidance in light of the alleged threat, the Letter does not constitute an adverse action. *See Thaddeus-X*, 175 F.3d at 396.

connection between Sensabaugh’s Facebook posts and his termination. We agree.

To show causation, Sensabaugh “must demonstrate ‘that the speech at issue represented a *substantial or motivating* factor in the adverse employment action.’” *Vereecke v. Huron Valley Sch. Dist.*, 609 F.3d 392, 400 (6th Cir. 2010) (quoting *Rodgers v. Banks*, 344 F.3d 587, 602 (6th Cir. 2003)). “A ‘motivating factor’ is essentially but-for cause. . . .” *Leonard v. Robinson*, 477 F.3d 347, 355 (6th Cir. 2007).³

Sensabaugh’s causation argument rests largely on temporal proximity. Without a doubt, the Letter of Guidance and the Letter of Reprimand came shortly after the Facebook posts. The termination, however, came almost six months later. And even if we agreed that temporal proximity could provide a suggestion of causation here, temporal proximity alone is rarely, if ever, sufficient to establish causation. *See Vereecke*, 609 F.3d at 400. There generally must be other indicia of retaliatory conduct. *Id.*

³ In challenging the district court’s causation determination, Sensabaugh argues that, pursuant to the balancing test set forth in *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968), the defendants have failed to “demonstrate[] that they have an overriding interest in maintaining the efficiency of the WCSD schools that outweigh Coach Sensabaugh’s protected speech.” But the *Pickering* balancing test goes to the first element of a First Amendment retaliation claim—whether a public employee such as Sensabaugh engaged in constitutionally protected speech. *See Westmoreland v. Sutherland*, 662 F.3d 714, 718–19 (6th Cir. 2011). The defendants have conceded that the Facebook posts were constitutionally protected speech; accordingly, we need not employ *Pickering*.

We see none here. At no time leading up to the termination did Halliburton ask or require Sensabaugh to remove the Facebook posts. In fact, both the Letter of Guidance and Letter of Reprimand explicitly acknowledged Sensabaugh's right to comment on public concerns through social media. Moreover, a thorough independent investigation preceded Sensabaugh's termination; that investigation concluded that the misconduct allegations were substantiated in full or in part, and that the misconduct supported termination. Sensabaugh casts no doubt on the impartiality of the investigation. And the evidence shows that Halliburton relied on the investigation when firing Sensabaugh.

Halliburton offered Sensabaugh an opportunity to respond to the investigation before she made any final decision. Sensabaugh was offered similar opportunities in the Letter of Guidance and the Letter of Reprimand. But he never responded or gave Halliburton reason to disbelieve the results of the independent investigation. And finally, Halliburton "relied upon the advice of the [Board's] attorney who agreed that termination was the proper course" in the circumstances.

In sum, when deciding to terminate Sensabaugh's employment, Halliburton relied on, among other things, the independent investigation, which went unrebutted by Sensabaugh, and the advice of the Board's attorney. There is no indication that Sensabaugh's Facebook posts played any part in the final decision; indeed, Halliburton repeatedly affirmed Sensabaugh's right to post them. Sensabaugh has not met his burden of showing that the Facebook posts were a substantial or motivating factor in his termination. *Leonard*, 477 F.3d at 355. Accordingly, he has not shown that Halliburton

violated his constitutional rights. Halliburton is entitled to qualified immunity.

III.

Sensabaugh also sued the Board, alleging municipal liability pursuant to *Monell v. Department of Social Services of New York*, 436 U.S. 658 (1978). But because Halliburton did not violate Sensabaugh's First Amendment rights, the municipal liability claim also fails. *Robertson v. Lucas*, 753 F.3d 606, 622 (6th Cir. 2014) ("There can be no liability under *Monell* without an underlying constitutional violation.").

[* * *]

We AFFIRM the judgment of the district court in favor of the defendants.

**JUDGMENT OF THE UNITED STATES COURT
OF APPEALS FOR THE SIXTH CIRCUIT
(AUGUST 27, 2019)**

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

GERALD SENSABAUGH,

Plaintiff-Appellant,

v.

KIMBER HALLIBURTON, Individually and
in Her Official Capacity as Director of Schools;
WASHINGTON COUNTY BOARD OF
EDUCATION,

Defendants-Appellees.

No. 18-6329

On Appeal from the United States District Court
for the Eastern District of Tennessee at Greeneville.

Before: ROGERS, BUSH, and LARSEN,
Circuit Judges.

THIS CAUSE was heard on the record from the
district court and was submitted on the briefs of counsel
without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED
that the judgment of the district court in favor of the
defendants is AFFIRMED.

App.17a

Entered by Order of the Court

/s/ Deborah S. Hunt

Clerk

**MEMORANDUM OPINION OF THE
UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF TENNESSEE
(NOVEMBER 19, 2018)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

GERALD SENSABAUGH,

Plaintiff,

v.

KIMBER HALLIBURTON, in Her Official and
Individual Capacities, and WASHINGTON
COUNTY BOARD OF EDUCATION,

Defendants.

No. 2:18-CV-11
Reeves/Corker

Before: Pamela L. REEVES,
United States District Judge.

This First Amendment retaliation action is brought pursuant to 42 U.S.C. § 1983 by Gerald Sensabaugh, the former head football coach at David Crockett High School against the Washington County Board of Education (the Board) and Kimber Halliburton in her individual and official capacities. Sensabaugh alleges that he engaged in protected speech in the form of Facebook posts on September 22 and 24, 2017. Sen-

sabaugh also alleges that in retaliation for these two posts, he was subjected to the following adverse actions that violated his First Amendment rights: (1) October 6, 2017 Letter of Guidance; (2) October 9, 2017 Letter of Reprimand/Suspension; and (3) March 15, 2018 termination.

The case is presently before the court on two motions: (1) Halliburton's motion for summary judgment on the grounds of qualified immunity; and (2) the Board's motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Because Sensabaugh has failed to state a claim for which relief can be granted and Halliburton is entitled to qualified immunity, defendants' motions will be granted and this action dismissed in its entirety.

I. Background

The backdrop for this case sounds like something out of the movies: a high school football star from East Tennessee makes it big in the NFL, plays eight years professionally, and then returns home to coach a previously mediocre high school program to "unprecedented success." In Hollywood, the plot would inevitably climax with the team overcoming long odds to clinch the state championship. But in this case, that's not what happened. Instead, in the middle of the football season, the school district called foul play on the coach, the coach claimed the district was out of bounds, and now the court must step in as referee.

In January 2017, the Washington County Board of Education hired former Dallas Cowboys player Gerald Sensabaugh to serve as the head football coach at David Crockett High School. By October, the school's football team was ranked first in its region and

classification. Despite the team's success, Sensabaugh had his mind on other matters. Specifically, he was increasingly disappointed with certain issues in the district—including deteriorating facilities and the allocation of funding to the high school's feeder elementary schools—and he wanted to make his views known.

On September 22, 2017, Sensabaugh visited Jonesborough Elementary School, one of the oldest buildings in the district. Administrative personnel at the school gave him permission to take photographs of the classrooms, which included some students. Later that day, Sensabaugh made a post on Facebook entitled "The real problem in Washington County," in which he commented on the school's design and poor learning conditions for the students. The post also included some photographs from his visit. Soon after the post went live, Sensabaugh began receiving calls and texts from the Washington County Director of Schools, Kimber Halliburton. In one text, Halliburton wrote, "I know you are trying to help. However, there is a history and information I need to share with you. . . . I need for you to know all the facts so that you can better help us." Sensabaugh was asked to remove any photo showing a child's face, but not any posts or other content. Sensabaugh did not take the photo with the children down as directed on September 22, 2017.

Two days later, on September 24, 2017, Sensabaugh made another Facebook post, entitled "The real problem in Washington County Pt. 2." In this post, Sensabaugh commented on the district's use of prison laborers to perform certain school maintenance work while students were on site. Approximately four hours later, Sensabaugh received the following text from

Halliburton: “I see you’ve posted something else before knowing all the facts. Uncertain why you are not taking my calls. I really would like to speak to you.” Sensabaugh responded, “I don’t need to know all the facts. Just my observation.” He agreed to call the director shortly thereafter, and then texted: “Just let me know the next step. Fire me or deal with it.”

On October 5, 2017, Sensabaugh received a “Letter of Guidance” from Peggy Wright, the principal at David Crockett High School. The letter addresses Sensabaugh’s alleged use of profanity when speaking to students; his failure to follow doctors’ orders regarding football players who have not been cleared to practice or play; his unprofessional conduct in communicating with other employees; and his failure to comply with multiple requests to remove the photo depicting students’ faces from his Facebook page. In the Letter of Guidance, Wright once again directs Sensabaugh to remove the photograph from Facebook but emphasizes that “[a]t no time did we ask you to delete any of your comments or opinions on social media.” The letter concludes with a warning that failure to follow the principal’s directives “may lead to discipline up to and including termination as [the school’s] football coach.”

On October 9, 2017, Wright sent Sensabaugh a second letter, reprimanding him for continued unprofessional conduct and recommending that he be placed on administrative leave (“Letter of Reprimand/Suspension”). The letter details additional allegations against Sensabaugh, including arriving late to a meeting; consistently interrupting and yelling at other staff; spreading rumors that the athletic director is addicted to and attempting to distribute Oxycodone; threatening the athletic trainer in front of students

and parents; and continuing to use profanity toward players. Wright also mentions that several students and employees have stated that they are fearful of Sensabaugh.

The next day, on October 10, 2017, Sensabaugh was placed on paid administrative leave, pending an investigation into the allegations of improper conduct. Phillip Baker of the law firm Ensley, Baker & Shade was the lead attorney assigned to conduct the investigation.

On January 19, 2018, while the investigation was ongoing, Sensabaugh filed suit against the Washington County Board of Education and Director Halliburton. He alleges that the defendants, acting under the color of state law, retaliated against him in violation of his First Amendment right to speak out on matters of public concern. Sensabaugh denies the allegations contained in the Letter of Guidance and the Letter of Reprimand/Suspension, and states that they are merely a “pretext” to mask defendants’ real motive: retaliating against him for exercising his free-speech rights on Facebook.

On February 23, 2018, Sensabaugh amended his complaint to add additional facts and allegations related to a letter that he received from Halliburton. In the letter, Halliburton notifies Sensabaugh that Baker completed his investigation and concluded that Sensabaugh “engaged in unprofessional, insubordinate, threatening, and retaliatory behavior toward supervisors, staff, and students.” Based on these findings, Baker recommended that Halliburton terminate Sensabaugh’s employment as head football coach. Halliburton informs Sensabaugh of this recommendation, and states that before she makes her final deci-

sion, she wishes to give Sensabaugh the opportunity to respond, and to provide her with evidence either to rebut Baker’s findings or in support of a less severe punishment. Sensabaugh contends that Halliburton’s letter incorporating the “Baker Recommendation” amounts to further adverse action against him. Sensabaugh did not respond to Halliburton’s letter, and Halliburton terminated Sensabaugh’s employment on March 15, 2018.

Defendants move to dismiss Sensabaugh’s complaint on grounds that Sensabaugh fails to allege an actionable “adverse action,” and Halliburton is entitled to qualified immunity.

II. Standard of Review

To survive a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, a complaint must articulate a facially plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); Fed. R. Civ. P. 8(a). When ruling on a Rule 12(b)(6) motion, the court must construe the complaint in the light most favorable to the plaintiff and accept all factual allegations in the complaint as true. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007). Dismissal is appropriate only if the court finds that the plaintiff “can prove no set of facts in support of his claims that would entitle him to relief.” *Meador v. Cabinet for Human Resources*, 902 F.2d 474, 475 (6th Cir. 1990) (emphasis added).

Summary judgment under Rule 56 of the Federal Rules of Civil Procedure is proper “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The moving

party bears the burden of establishing that no genuine issues of material fact exist. *Celotex Corp. v. Cattrett*, 477 U.S. 317, 330 n. 2 (1986); *Moore v. Philip Morris Co., Inc.*, 8 F.3d 335, 339 (6th Cir. 1993). All facts and inferences to be drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Matsushita Elec. Indus. Co. Ltd v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986); *Burchett v. Keifer*, 301 F.3d 937, 942 (6th Cir. 2002).

Once the moving party presents evidence sufficient to support a motion under Rule 56, the nonmoving party is not entitled to a trial merely on the basis of allegations. *Celotex*, 477 U.S. at 317. To establish a genuine issue as to the existence of a particular element, the nonmoving party must point to evidence in the record upon which a reasonable finder of fact could find in its favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The issue must also be material; that is, it must involve facts that might affect the outcome of the suit under the governing law. *Id.*

The court's function at the point of summary judgment is limited to determining whether sufficient evidence has been presented to make the issue of fact a proper question for the factfinder. *Id.* at 250. The court does not weigh the evidence or determine the truth of the matter. *Id.* at 249. Nor does the court search the record "to establish that it is bereft of a genuine issue of fact." *Street v. J.C. Bradford & Co.*, 886 F.2d 1472, 1479 (6th Cir. 1989). Thus, "the inquiry performed is the threshold inquiry of determining whether there is a need for a trial—whether, in other words, there are any genuine factual issues that properly can be resolved only by a finder of fact because they

may reasonably be resolved in favor of either party.” *Anderson*, 477 U.S. at 250.

III. Discussion

“The First Amendment prohibits retaliation by a public employer against an employee on the basis of certain instances of protected speech by the employee.” *Ehrlich v. Kovack*, 710 F. App’x 646, 650 (6th Cir. 2017). To prove a claim of First Amendment retaliation, the plaintiff must plead factual allegations that, if true, establish the following three elements: (1) the plaintiff engaged in protected conduct; (2) an adverse action was taken against the plaintiff that would deter a person of ordinary firmness from continuing to engage in that conduct; and (3) there is a causal connection between elements one and two—that is, the adverse action was motivated at least in part by the plaintiff’s protected conduct. *Harris v. Detroit Pub. Sch.*, 245 F. App’x 437, 442 (6th Cir. 2007). If the employee establishes a *prima facie* case, the burden shifts to the employer to demonstrate by a preponderance of the evidence that the employment decision would have been the same absent the protected conduct. Once this shift has occurred, summary judgment is warranted if, in light of the evidence viewed in the light most favorable to the plaintiff, no reasonable juror could fail to return a verdict for the defendant. *Dye v. Office of the Racing Comm’n*, 702 F.3d 286, 294-95 (6th Cir. 2012).

In the Sixth Circuit, an “adverse action” is one that “would chill or silence a person of ordinary firmness from future First Amendment activities.” *Benison v. Ross*, 765 F.3d 649, 659 (6th Cir. 2014). The phrase has traditionally referred to actions such as

“discharge, demotions, refusal to hire, nonrenewal of contracts, and failure to promote.” *Fritz v. Charter Twp. of Comstock*, 592 F.3d 718, 724 (6th Cir. 2010). However, “any action that would deter a person of ordinary firmness from exercising protected conduct will suffice.” *Id.* (emphasis added). Even so, the Sixth Circuit cautions that courts “must be careful to ensure that real injury is involved, lest we trivialize the First Amendment. . . .” *Mezibov v. Allen*, 411 F.3d 712, 721 (6th Cir. 2005). Determining whether an adverse action has occurred is an objective inquiry, that must be tailored to the circumstances. *Stolle v. Kent State Univ.*, 610 F. App’x 476, 483 (6th Cir. 2015).

In his complaint, Sensabaugh alleges that the defendants took three adverse actions against him in retaliation for his Facebook posts: (1) issuing the Letter of Guidance; (2) issuing the Letter of Reprimand/Suspension; and (3) terminating him from his position as head football coach. The court will address the sufficiency of each action. If Sensabaugh can point to facts supporting all three elements of a *prima facie* case, the court will next consider whether defendants can demonstrate that they would have taken the same action regardless of Sensabaugh’s protected conduct.

A. Qualified Immunity

Qualified immunity shields government officials from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Pearson v. Callahan*, 555 U.S. 223, 231 (2009). Therefore, if a defendant asserts qualified immunity, the plaintiff bears the burden of showing (1) a violation of a constitutional right, and (2) that the

right at issue was clearly established at the time of the defendant's alleged misconduct. *Barker v. Goodrich*, 649 F.3d 428, 433 (6th Cir. 2011). A clearly established right must be described to a reasonable degree of certainty in Supreme Court or lower court precedent. For a right to be clearly established, the contours of the right must be sufficiently clear that a reasonable official would understand that what she is doing violates that right. In determining whether a constitutional right is clearly established, this court looks first to decisions of the Supreme Court, then to decisions of the other courts within the Sixth Circuit. *Bell v. Johnson*, 308 F.3d 594, 601-02 (6th Cir. 2002). Qualified immunity is a personal defense that applies only to government officials in their individual capacities. *Everson v. Leis*, 556 F.3d 484, 501 n. 7 (6th Cir. 2009).

Halliburton asserts that in deciding to terminate Sensabaugh, she was entitled to rely on information provided to her by (1) employees of the school system, (2) students in the school system, and (3) the outside law firm brought in to investigate the allegations. As the Sixth Circuit explains:

In a case such as this where one officer's claim to qualified immunity from the consequences of a constitutional violation rests on his asserted good faith reliance on the report of other officers, we consider: (1) what information was clear or should have been clear to the individual officer at the time of the incident; and (2) what information that officer was reasonably entitled to rely on in deciding how to act, based on an objective reading of the information.

Brown v. Lewis, 779 F.3d 401, 413 (6th Cir. 2015).

Halliburton provided a Declaration stating the facts known to her at the time she issued the Letter of Guidance, Letter of Reprimand/Suspension, and ultimately terminated Sensabaugh's employment. In the late summer of 2017, several members of the Board reported to Halliburton that parents or others had complained about the language that Sensabaugh was using with the football players. Halliburton discussed this with Principal Wright and Athletic Director Josh Kite. Thereafter, Kite advised Halliburton that he had discussed the issue with Sensabaugh and that Sensabaugh agreed to correct the problem. In mid-August of 2017, a parent complained to Kite about Assistant Coach Treadway using profane and inappropriate language. Kite advised Sensabaugh to instruct Treadway to stop using such language. On September 18, 2017, Kite addressed with Sensabaugh his use of profanity. Sensabaugh responded by asking Kite to extend the caution tape at football games further out, implying that would make it more difficult for others to hear Sensabaugh on the sidelines. As the Letter of Guidance was being prepared, Wright interviewed several students who told her that Sensabaugh had directed the following phrases to or at individual students /players or to the football team collectively. "You are pieces of sh*t," "You f**king sh*ts," and "You mother **kers."

On September 22, 2017, Sensabaugh visited Jonesborough Elementary School. After his visit, he posted the first Facebook post regarding conditions at the school. As part of the post, Sensabaugh included photos of a classroom with elementary school students. One photo clearly showed the faces of two students. The

principal of the school contacted the Director of Human Resources and expressed his concern about the photo showing students' faces and advised that he did not know whether the school had a written parent consent. The HR Director then discussed the principal's concerns with Wright and Halliburton. Halliburton was aware that the public posting of a photo showing a child's face could be violative of both the Board's policy and the Family Educational Rights and Privacy Act. Halliburton contacted legal counsel for the Board, and then she and Wright attempted to call Sensabaugh who did not answer. Halliburton instructed Wright to contact Sensabaugh and direct him to immediately remove any photo showing a child's face, but not the posts or any other content. Wright texted Sensabaugh that he was directed to take down any photos showing students' faces but she did not direct Sensabaugh to remove any post or content. Sensabaugh did not take the photos down as directed.

On September 24, 2017, Sensabaugh posted on Facebook safety concerns about prisoners doing work on the school campus during school hours. Wright and Halliburton spoke to Sensabaugh by phone and attempted to address the safety concerns that Sensabaugh had raised and again requested that he remove the photo of children from Facebook. They specifically advised Sensabaugh that he did not need to take down the posts, just the photo of the students. During this conversation, Sensabaugh yelled at them and told them that he was not taking the photo down. Then, he hung up on them. He texted Halliburton "Just let me know the next step. Fire me or deal with it." Sensabaugh did not remove the photo showing students'

faces until after the Letter of Guidance was delivered to him at a meeting on October 6, 2017.

Halliburton states that at no time did she or Wright instruct Sensabaugh to remove the Facebook posts or instruct him to remove any content. The Letter of Guidance specifically stated: "At no time did we ask you to delete any of your comments or opinions on social media. You have the right to comment on matters of public interest on social media." The Letter of Guidance also addressed a concern raised by Athletic Trainer Bryon Grant. Grant sent Sensabaugh an email advising him that certain students were under the care of a physician or trainer and should not play or practice. According to information Grant provided to Halliburton, Sensabaugh violated those instructions by practicing one of the injured players. The Letter of Guidance closed as follows:

I am directing you to bring any and all safety concerns to me as principal. Furthermore, I am directing you to immediately stop using profanity when speaking to our students/football players and to follow the athletic trainer's/doctor's orders completely for injured students to protect their safety. You are further directed to refrain from yelling or screaming at me, our Athletic Director, and any other employee of the Washington County School System. I am once again directing you to take the picture of the Jonesborough Elementary students off of your post on social media to protect the privacy of the students whose pictures you did not have permission to use.

Failure to follow my directives may lead to discipline up to and including termination as our football coach.

The issuance of the Letter of Guidance did not itself impose any discipline or alter Sensabaugh's employment conditions in any way. And Principal Wright's warning to Sensabaugh that "[f]ailure to follow my directives may lead to discipline up to and including termination" does not constitute an adverse action. The directives in the letter simply instruct Sensabaugh to conform his behavior to certain standards of professional conduct unrelated to his right to comment on matters of public interest on his Facebook page. As Wright expressly acknowledges in the Letter of Guidance: "You have the right to comment on matters of public interest on social media."

Even if the Letter of Guidance was issued as a "pretext" to punish Sensabaugh for his social media comments, the court finds that a written reprimand, without more, is insufficient as a matter of law to support a First Amendment retaliation claim. The Sixth Circuit has been clear that "when a plaintiff's alleged adverse action is inconsequential, resulting in nothing more than a *de minimis* injury, the claim is properly dismissed as a matter of law." *Wurzelbacher v. Jones-Kelley*, 675 F.3d 580, 584 (6th Cir. 2012); *see also Russell v. Metro. Nashville Pub. Sch.*, 2012 WL 3241664 at *5 (M.D. Tenn. Aug. 7, 2012) ("Plaintiff's being 'written up' is not an adverse employment action under the facts of this case."). The court will next examine Halliburton's actions with respect to the Letter of Reprimand/Suspension.

Principal Wright provided a Declaration of events she reported to Halliburton regarding the meeting

with Sensabaugh and its aftermath. On October 6, 2017, the Letter of Guidance meeting with Sensabaugh was tape recorded. Halliburton was not present for this meeting, but others reported to her about Sensabaugh's conduct. Halliburton was told that Sensabaugh became agitated, began pacing back and forth, became belligerent and confrontational. He interrupted Wright as she read the Letter of Guidance. Sensabaugh then accused Athletic Director Kite of coming to work "high" on prescription medication, and of offering Sensabaugh this medication on multiple occasions. The recording of the meeting corroborates these statements.

After the meeting, Sensabaugh proceeded to the high school cafeteria where the players and coaches were getting their pre-game meal before the football game later that evening. Sensabaugh confronted Athletic Trainer Grant. Grant stated Sensabaugh appeared angry, paced back and forth, and said: "I'm coming after you. I'm coming after your job. You're not a real trainer. You're a wannabe trainer. I've got a real trainer from Dobyns Bennett ready to take your job." Grant reported that he felt intimidated and he was concerned that Sensabaugh would become physical if Grant attempted to argue. This confrontation occurred in the presence of students and coaches. Sensabaugh also challenged the injured student in front of everyone and said: "Did you tell them I practiced you?" The student answered "yes" while holding his head down as if he was afraid of Sensabaugh. Wright received almost identical accounts from other parents and coaches present in the cafeteria. Coach Lewis also reported that Sensabaugh said "I'm going after Josh next. Josh tried to throw me under the bus too."

At the football game later that evening, it was reported that Sensabaugh again used profanity in front of coaches and players. Coach Lewis reported that a player fumbled and as he was running off the field, Sensabaugh loudly stated: “Don’t let that f**ker run the ball again this year.” Coach Qualls also confirmed that Sensabaugh called the student who fumbled the ball a “f**ker.” Qualls also reported that prior to the game, Sensabaugh proclaimed loudly so that everyone around, including students, could hear: “Josh Kite has a drug problem and has offered me Oxycodone. He carries it around the school and I don’t care who hears me.” Qualls told Wright that “the kids are fed up with Coach Sensabaugh.”

Halliburton again sought advice from the Board’s legal counsel, who recommended Halliburton issue a letter of reprimand and suspend Sensabaugh with pay pending the outcome of an investigation by an outside law firm. A Letter of Reprimand was drafted advising Sensabaugh of his suspension with pay pending investigation. Kite was also suspended with pay pending investigation into Sensabaugh’s allegations of drug use.

Again, as with the Letter of Guidance, the court finds that the Letter of Reprimand/Suspension does not constitute an adverse action against Sensabaugh. The Sixth Circuit has squarely held that “being placed on paid administrative leave while an investigation is conducted into suspected wrongdoing is not an adverse action.” *Ehrlich v. Kovack*, 710 F. App’x 646, 650 (6th Cir. 2017). Accordingly, the issuance of the Letter of Suspension/Reprimand and the subsequent suspension are not adverse actions. This is so despite Sensabaugh’s claim that the letter did not contain

“any instructions or information” as to how he would be paid while on administrative leave. Nowhere does Sensabaugh actually allege that he was suspended without pay, and the record indicates that he was in fact paid during this period. Thus, even accepting all Sensabaugh’s allegations as true and drawing all reasonable inferences in his favor, the court finds that Sensabaugh fails to allege an actionable adverse action regarding the Letter of Suspension/Reprimand. The court will proceed to examine Halliburton’s decision to terminate Sensabaugh’s employment.

The Letter of Reprimand/Suspension was given to Sensabaugh at a meeting with Wright on October 10, 2017. Assistant Principal John Verble and Curtis Fullbright were present for that meeting which was tape recorded. During this meeting, Sensabaugh was rude and insubordinate. He questioned Wright about her actions as Principal and attacked her competence. The recording of the meeting substantiates these statements.

In late January 2018, Halliburton was informed that a bus driver recalled Sensabaugh riding the bus with football players on one occasion and recalled Sensabaugh cursing at the players during that trip. The video relating to that bus trip was located and was provided to Halliburton. The video corroborates the bus driver’s account of Sensabaugh’s behavior.

On February 9, 2018, the law firm investigating the allegations against Sensabaugh issued its report. It recommended that Sensabaugh be terminated. Relying on the findings and recommendations made in the investigative report, Halliburton wrote to Sensabaugh inviting him to provide any “written statements or other evidence you wish me to consider in

your defense, whether in rebuttal to Attorney Baker's findings or in support of a less severe punishment. Alternatively, you may request a meeting with me to present your defense and to explain why I should not terminate you." Sensabaugh made no response to the findings of the investigative report, nor did he request a meeting with Halliburton. Sensabaugh's employment was terminated on March 15, 2018.

In making the decision to terminate Sensabaugh, Halliburton relied on (1) the investigative report, (2) statements made by Sensabaugh, (3) recording of the Letter of Guidance meeting, (4) recording of the Letter of Reprimand/Suspension meeting, (5) videos showing Sensabaugh cursing at the students, and (6) the recommendation of the outside investigators. After consulting with the Board's legal counsel, the decision was made to terminate Sensabaugh's employment.

Based upon the record herein, the court finds that no reasonable jury could find that Sensabaugh's Facebook posts were a substantial motivating factor for Halliburton's decisions to issue the Letters of Guidance/Reprimand/Suspension or to terminate Sensabaugh. Halliburton decided to terminate Sensabaugh only after a complete investigation by an outside law firm and after Sensabaugh had been given an opportunity to respond to the investigation findings. Even if Sensabaugh had established a *prima facie* case, Halliburton has established through substantial evidence that she would have terminated Sensabaugh's employment absent his protected speech. Sensabaugh's actions of insubordination, use of profanity towards students, and retaliatory conduct toward students and co-workers were an independent justification for Halliburton's actions. There is no constitutional injury

under the facts of this case. Accordingly, the court finds that Halliburton is entitled to qualified immunity.

B. Municipal Liability

As regards the Board, Sensabaugh's complaint contains no allegation of a policy or practice of the Board that was a moving force in causing an alleged First Amendment violation. Instead, he seeks to hold the Board liable for the actions of Halliburton.

A plaintiff raising a municipal liability claim under § 1983 must demonstrate that the alleged federal violation occurred because of a municipal policy or custom. *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978). A plaintiff can make a showing of an illegal policy or custom by demonstrating one of the following: (1) the existence of an illegal official policy or legislative enactment; (2) that an official with final decision making authority ratified illegal actions; (3) the existence of a policy of inadequate training or supervision; or (4) the existence of a custom of tolerance or acquiescence of federal rights violations. *Thomas v. City of Chattanooga*, 398 F.3d 426, 429 (6th Cir. 2005). A municipality may not be sued under § 1983 for an injury inflicted solely by its employees or agents. *Monell*, 436 U.S. at 694.

Here, the Board has a policy that encourages and respects employee rights to freedom of expression under the First Amendment to the Constitution of the United States. That policy says "Statements made by an employee acting as a private citizen and speaking on a matter of public concern are protected speech and thereby not subject to disciplinary action by the school system." Moreover, the Board cannot be held liable for any actions of Halliburton because there is no *respon-*

deat superior liability under § 1983. *Burgess v. Fischer*, 735 F.3d 462, 478 (6th Cir. 2013). There must be a constitutional violation for a § 1983 claim against a municipality to succeed—if the plaintiff has suffered no constitutional injury, his *Monell* claim fails. *See City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986). Accordingly, the court finds that Sensabaugh fails to state a claim against the Board for which relief can be granted and the Board’s motion to dismiss is granted.

IV. Conclusion

In light of the foregoing discussion, the court finds that Sensabaugh’s complaint fails to state a claim upon which relief may be granted against the Washington County Board of Education. In addition, Halliburton is entitled to qualified immunity as to Sensabaugh’s claims against her in her individual capacity. Accordingly, The Board’s motion to dismiss [R. 32] is GRANTED, and Halliburton’s motion for summary judgment [R. 26] is GRANTED.

Ordered to Follow.

/s/ Pamela L. Reeves

United States District Judge

JUDGMENT OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF TENNESSEE
(NOVEMBER 19, 2018)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

GERALD SENSABAUGH,

Plaintiff,

v.

KIMBER HALLIBURTON, in Her Official and
Individual Capacities, and WASHINGTON
COUNTY BOARD OF EDUCATION,

Defendants.

No. 2:18-CV-11
Reeves/Corker

Before: Pamela L. REEVES,
United States District Judge.

In accordance with the Memorandum Opinion filed contemporaneously herewith, it is ORDERED that the Defendants' motions to dismiss and for summary judgment are GRANTED, and Plaintiff's claims against Defendants are DISMISSED, with prejudice.

The Clerk is DIRECTED to remove the trial scheduled for September 10, 2019, from the court's docket.

IT IS SO ORDERED.

/s/ Pamela L. Reeves
United States District Judge

**TEXT MESSAGES BETWEEN COACH
SENSABAUGH AND DIRECTOR HALLIBURTON
(SEPTEMBER 22, 2017)**

SENSABAUGH DECLARATION, R. 41-1, PAGE ID # 1195.

Coach Sensabaugh: My phone is beeping in and out. I can only text right now. I'm inside the school.

Director Halliburton: I know you are trying to help. However, there is a history and information I need to share with you. Good luck tonight!

Coach Sensabaugh: I've seen it all since I've been here. This place needs major change.

Director Halliburton: I agree, but I need for you to know all the facts so that you can better help us.

**TEXT MESSAGES BETWEEN COACH
SENSABAUGH AND PRINCIPAL WRIGHT
(SEPTEMBER 22, 2017)**

SENSABAUGH DECLARATION,
R. 41-1, PAGE ID # 1195-1196.

Coach Sensabaugh: I'm pretty busy right now. I'm sure things are a little hectic right now but please text me your thoughts so I can gather more of my thoughts.

Principal Wright: I'm with Mrs Halliburton...please take the pictures of JES off your Facebook posting.. as a district employee we may not have parent permission to have these student school pics on Facebook!

Coach Sensabaugh: So are you telling me that all these pictures I've done with kids at school that have been put on social media are cool.....But when I post content about concerns y'all want me to delete the post. Is this what I'm hearing?

Principal Wright: Gerald.. these are elementary students.. and the Director says parents can deny their kids pictures be used by an employee on social media.. she's talking about the pictures

Coach Sensabaugh: I have been in many pictures with Washington county elementary school kids, and there has never been a issue with having kids pictures in those. I'm trying to bring awareness to the change you guys claim you want. This job is not about football to me. It's about overall change to better our youth.

Principal Wright: The principal of JES is worried about these particular kids so he is requesting the pics please come off

Coach Sensabaugh: It's sad that this is all you guys are worried about. Those kids were super excited about me coming there. I was just surprised by the conditions the school is in. Are parents complaining about their kids being on there? Because with all the social media that goes on I have never heard of kids faces shown being a issue.

Principal Wright: If parents have signed a form that pics of their kids can't be published then legally we can be sued.. that's the concern

Coach Sensabaugh: Can you check on the couple kids you might be able to recognize and see if any of them signed that form?

Principal Wright: I believe you are really trying to help the county.., I know where your heart is.. but we need to sit down and talk with Mrs Halliburton. The principal is checking on pics and forms.. people on social media are talking about how horrible the teachers are and dogging the whole school.. sad

Coach Sensabaugh: That's not what I said, That's their opinion. It's the support from the county commissioner board that's the problem.

**TEXT MESSAGES BETWEEN COACH
SENSABAUGH AND MAYOR ELDRIDGE
(SEPTEMBER 22, 2017)**

SENSABAUGH DECLARATION,
R. 41-1, PAGE ID # 1198-1199.

Coach Sensabaugh: Hey, This is Gerald Sensabaugh. Is there any plans for upgrades to the schools? I just visited jonesborough elementary and that's got to be the worst school I've ever visited in my life. I've been to many schools all over the country but this one was a real head shaker

Mayor Eldridge: Gerald, The County Commission approved \$20 million for additions and renovations to Jonesborough Elem early this year. School Board architects have concept plan ready for board approval. Schedule anticipates bidding late winter and start of construction next spring.

Boones Creek Elem and Middle schools replacement K8 is under construction now at a cost of \$25 million. \$5 million has been approved for renovations to Jboro middle to convert it to Academic Magnate.

More than \$10 million in misc capital improvements at other schools has been budgeted. More than \$1 million a year is now being spent on technology in the classroom.

We're making progress. Certainly open to further input you may have.

Coach Sensabaugh: This being year 2017. A school in the heart of Jonesborough divided my partitions and not walls is ancient to me. From what I hear

I appreciate you and know that you are one of the good guys. I really appreciate you. I was just stunned when I went to that school to surprise that kid and seen the conditions. I had a glimpse of when I was 8 years old in Oakland California.

Mayor Eldridge: I agree, Jboro and BC Elem have been like that for 45 years and to my knowledge it was never a school board priority to fix it. We're on it now however.

By the way, we have also increased local operational funding to the school system by about 20% in the last 7 years.

My daughter taught in the round part of Jboro 3 years, it's a challenge to educate in that environment. You're right, we have to do better!

Let's have lunch week after next and talk more about this. I see real opportunity! Also, congratulations on a strong start this season!

Coach Sensabaugh: Thanks we have to better this place.

**TEXT MESSAGES BETWEEN COACH
SENSABAUGH AND DIRECTOR HALLIBURTON
(SEPTEMBER 24, 2017)**

SENSABAUGH DECLARATION,
R. 41-1, PAGE ID # 1199-1200.

Director Halliburton: I see you've posted something else before knowing all the facts. Uncertain why you are not taking my calls. I really would like to speak to you.

Coach Sensabaugh: I don't need to know all the facts. Just my observation. Working on County Commissioners.

Director Halliburton: So. You are not going to accept my calls?

Coach Sensabaugh: I just landed in Dallas. I will give you a call when I get in my rental car. Should be 5 min

Director Halliburton: Great! Thanks.

**TEXT MESSAGES FROM BECKY CAMPBELL OF
LOCAL MEDIA TO COACH SENSABAUGH
(SEPTEMBER 25, 2017)**

SENSABAUGH DECLARATION, R. 41-1, PAGE ID # 1200.

Becky Campbell: Hey Gerald, Becky Campbell here. I haven't heard back from Halliburton, but I did talk to [Mayor] Dan Eldridge. He said he and you texted on Friday about Jonesborough and he told you about the plans for the school (\$20 million in renovations, he said), etc. He thought your FB post was "premature and uninformed."

He also said he invited you to lunch to talk about the issues/concerns.

Any comment?

**LETTER OF GUIDANCE FROM PEGGY WRIGHT
TO COACH SENSABAUGH
(OCTOBER 5, 2017)**

DAVID CROCKETT HIGH SCHOOL
684 Old State Route 34
Jonesborough, Tennessee 37659
Phone: (423) 753-1150 Fax: (423) 753-1167

Peggy Wright
Principal

Kent Green
Assistant Principal

Scott Hagy
Assistant Principal

John Verbie
Assistant Principal

Josh Kite
Athletic Director

Date: October 5, 2017

To: Gerald Sensabaugh, Football Coach, DCHS

From: Peggy Wright, Principal

Re: Letter of Guidance—Professional Responsibilities

This letter of guidance is due to your failure to bring safety concerns to your immediate supervisors at David Crockett High School and address instances of your unprofessional conduct. It is also a letter of guidance to share expectations with you in regard to your use of profane language with students/football players and the postings of pictures of students' faces on social media. In addition, I want to offer you guidance

on following our athletic trainer's directives and doctor's orders in regard to making injured players practice while still under their physician's and/or trainer's care.

On Friday, September 22, 2017, you visited Jonesborough Elementary School. You took pictures of the classrooms. You took one particular picture of a classroom full of students without the teacher or principal's knowledge. One particular picture had a couple of the children's faces visible, making them easy to identify. Both I and the Director of Schools attempted to call you. However, you did not answer your phone. You tested me back and stated you could not talk and for me to text you my thoughts. We exchanged several texts, but I directed you to take down any pictures on your social media posting with student faces depicted. I expressed to you that the principal of Jonesborough Elementary, Matt Combs, was concerned and uncertain if the students in the picture had parental consent for their pictures to be posted on the internet. The picture is still posted today, even though I directed you a second time on Sunday, September 24, 2017 in a phone conversation to take that particular picture down.

The Director of Schools, Kimber Halliburton, and I called you on Sunday, September 24, 2017. We informed you that you were on speaker phone. I told you we still did not know if we had parental consent for the picture and directed you once again to take that particular picture down. At no time did we ask you to delete any of your comments or opinions on social media. You have the right to comment on matters of public interest on social media. As of today, the picture depicting the students' faces is still on your Facebook page. We asked you to take down the photograph to protect the privacy of students and their families. My

concern and directive to you is my attempt to assist you and protect you, our students and their privacy, and honor and abide by our parents' wishes and requests under the Family Education Right to Privacy Act (FERPA). As an employee of Washington County Schools, you must abide by the law.

During this phone conversation, the director and I attempted to address your concerns, but you screamed into the phone whenever she or I attempted to speak. You stated that, "Everyone at Crockett is a bunch of Neanderthals." You stated to Mrs. Halliburton that the County Commissioners are just a bunch of old men and it is time for change. Mrs. Halliburton attempted to explain how much progress has been made with the facilities plan and funding and that the Commission has been very generous and supportive. However, you would not listen to us. You yelled over us. We each asked you several times, "May I talk now?" "Coach, can I speak?" "Gerald, would you allow me to talk?" "Coach, please listen." However, you continued to shout at us both. In addition, the director expressed she wanted to share some facts and history with you of the progress that has already been made. Your response was you did not need the facts and that you only needed your own observations. I believe this information would be helpful so that you have all the facts.

Your direct supervisor, Athletic Director Josh Kite, has shared parent complaints with you in regard to your use of profane language with students. In August, Mr. Kite shared with you that a parent complained about Coach Treadway's profane and inappropriate language. He expressed that Mr. Treadway must stop using inappropriate and profane language around the players. On September 18, 2017, Mr. Kite met with you

again. At that time, he had received a parent complaint about your profane and inappropriate language with players, His conversations and his expectations for you were as follows, “Gerald, people in the stands and your mother are hearing you and other coaches using profanity and you need to fix it.” You responded, “My mother needs to mind her own business and I am going to tell her that.” You then expressed to Mr. Kite that you were texting her to stay out of your business and proceeded to text your Mother. You then asked Mr. Kite to move the caution tape extending it out so others would not be as close to you in proximity on the sidelines implying you did not want others to be able to hear you on the sidelines. It has been reported to me from students that you have used the following phrases directed to and at our students: “You are pieces of s[REDACTED]!” “You f[REDACTED] s[REDACTED]!” “You m[REDACTED] f[REDACTED].” These comments have been directed at individual players and at the team collectively. As an employee of Washington County Schools, you are required to follow your supervisor’s directives and also expected to conduct yourself professionally and appropriately. You are expected to refrain from use of profanity or inappropriate language around or at students.

On September 28, 2017, you received an email which listed student players who were still under the care of a physician or under our athletic trainer’s care and were too injured/sick to play or practice. One particular student was on that list, [REDACTED]. On September 28, 2017, after receiving the list, you made student, [REDACTED], practice against the trainer’s “player updates” sent in his daily email to coaches. As the head football coach at DCHS, you are required to follow physician

orders and/or athletic trainer orders and updates regarding players who are not cleared to practice or play.

I am directing you to bring any and all safety concerns to me as principal. Furthermore, I am directing you to immediately stop using profanity when speaking to our students/football players and to follow the athletic trainer's/doctor's orders completely for injured students to protect their safety. You are further directed to refrain from yelling or screaming at me, our Athletic Director, and any other employee of the Washington County School System. I am once again directing you to take the picture of Jonesborough Elementary students off of your post on social media to protect the privacy of the students whose pictures you did not have permission to use.

Failure to follow my directives may lead to discipline up to and including termination as our football coach.

I am placing this communication in your employee site file. I invite you to respond to this letter in writing. I will attach your response to this letter and file it in your employee site file as well.

Cc: Site File

SEPARATION PRACTICES FOR NON CERTIFIED EMPLOYEES

Descriptor Term:

Separation Practices for Non- Certified Employees

Descriptor Code: 5.2031

Issue Date: 1/3/2013

Suspension

The Director of Schools/designee may suspend an employee at any time when deemed necessary.¹

Dismissal

All non-certified (classified) employees are employed at the will of the director. The Director of Schools may dismiss any non-certified employee for any reason at any time.

Notwithstanding the Director's broad authority to hire, direct and control, suspend or dismiss classified personnel, if the Director elects to terminate a classified employee for any reason that would preclude future employment with the Washington County Department of Education or that might disqualify the employee from receiving unemployment benefits, then the Director shall first require the employee's supervisor to provide the employee with written notice that the Director is considering terminating the employee for cause along with a summary of allegations. The employee may refute the charges, request the Director to impose lesser discipline, or simply ask for an explanation of the

¹ TCA 49-2-301(b)(1)(EE)(FF)

Director's decision. At the Director's option, the Director may require the employee's supervisor to be present and may permit the employee to bring witnesses to speak on the employee's behalf. After the meeting with the employee, the Director may conduct whatever additional investigation s/he deems necessary and appropriate. After the Director believes s/he has investigated the charges against the employee and has heard the employee's position on the charges, the Director shall render a decision in writing. The Director's decision shall be final.

**ENGAGEMENT LETTER OF
ENSLEY BAKER SHADE
(OCTOBER 9, 2017)**

ENSLEY BAKER SHADE, PLLC
Philip R. Baker
pbaker@ensleybakersshade.com

Kimber Halliburton
Director of Schools
Washington County (TN) Schools
405 W. College Street
Jonesborough, TN 37659

Re: Washington County (TN) Schools
Workplace Investigation by Outside Counsel–
Employee Professionalism

Dear Ms. Halliburton:

We are pleased that Washington County Schools has retained Ensley, Baker & Shade, PLLC to conduct an independent workplace investigation into allegations of employee misconduct and to provide recommendations and legal advice regarding same. The purpose of this letter is to clarify and confirm the scope of our engagement as counsel and inform you regarding our fees, billing and collection policies, and other terms that will govern our relationship. Although we do not wish to be overly formal in our relationship with you, we have found it helpful to confirm with our clients the nature and terms of our representation. Our engagement may be terminated at will by either of us, subject to payment of all fees for services performed and costs advanced through the date of termination.

Scope of Investigation

The scope of the investigation for which you have retained our firm shall be limited to the allegations contained in the “Letter of Guidance” provided to Gerald Sensabaugh, David Crockett Football Coach, by Principal Peggy White on or about October 5, 2017. In addition, we have been asked to investigate allegations made by Coach Sensabaugh regarding alleged misconduct by Athletic Director Josh Kite. At the conclusion of our investigation, we will provide Principal Peggy White with a written report, outlining our findings, recommendations and legal advice regarding these matters.

To the extent allowed by law, the information collected during the investigation shall be protected by the attorney-client privilege, work product doctrine, or both. However, be advised that these privileges and protections are not absolute.

Fees and Billing

Our hourly rates for conducting the investigation will be our previously agreed upon discounted rate of \$175.00 for work performed by partners and \$150.00 for work performed by associates. We recommend that two attorneys be present for each witness interview, which will help ensure the independence, objectivity and accuracy of the process.

You will receive invoices for fees and expenses on a monthly basis. These monthly invoices are due for payment upon receipt. In the event that the invoice is not fully paid within sixty days from the date it was rendered, we will have the discretion to determine

whether our withdrawal from this matter is appropriate under the circumstances.

Unless previously terminated, our representation of you will terminate upon the conclusion of this matter and the mailing of our final statement for services rendered in connection with this matter. Following such termination, any otherwise non-public information you have supplied to us that we retained will be kept confidential in accordance with applicable rules of professional conduct. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents or other materials we retained within a reasonable time after the termination of the engagement but not to be less than five years.

If the above properly sets forth our agreement, please sign and return a copy of this letter to me. If any of the above is not clear, or if you have any questions, please do not hesitate to call.

Warmest regards,

Philip R. Baker

I understand and agree to the terms set forth herein.

Name: /s/ Kimber Halliburton
Washington County Schools
Kimber Halliburton
Director of Schools

Date: 10/9/17

**COMPTROLLER'S INVESTIGATIVE REPORT
(MAY 21, 2018)**

{ Images Excluded }

**DAVID CROCKET HIGH SCHOOL
WASHINGTON COUNTY SCHOOL DEPARTMENT**

**COMPTROLLER'S INVESTIGATIVE REPORT
MAY 21, 2018**

JUSTIN P. WILSON, COMPTROLLER

TENNESSEE COMPTROLLER OF THE TREASURY

Justin Wilson
Comptroller

Jason E. Mumpower
Chief of Staff

May 21, 2018

Director of Schools and School Board Members
Washington County Department of Education
405 West College Street
Jonesborough, TN 37659

Ladies and Gentlemen:

The Office of the Comptroller of the Treasury conducted an investigation of pertinent records of the David Crockett High School, and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Haslam, the State Attorney General, the District Attorney General, certain state legislators, and various other interested parties. A copy is available

for public inspection in our office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,
Justin P. Wilson
Comptroller of the Treasury

JPW/RAD

INVESTIGATIVE REPORT

DAVID CROCKETT HIGH SCHOOL WASHINGTON COUNTY SCHOOL SYSTEM

We performed an investigation of selected records of David Crockett High School (DCHS) located in Washington County, Tennessee, for the period March 6, 2017, through August 31, 2017. Findings and recommendations, as a result of our investigation, are presented in this report. Also, these findings and recommendations, have been reviewed with the district attorney general for the First Judicial District.

INVESTIGATIVE FINDINGS AND RECOMMENDATIONS

FINDING 1: A cash shortage of at least \$1,020 existed at David Crockett High School as of August 31, 2017

A. The DCHS football team held a fundraiser where they provided 300 season passes for sale for \$30 each. These season passes allowed the purchaser to attend five football games and receive a Pioneer Nation t-shirt. Our review of deposits revealed that the school staff member responsible for the fundraiser could not account for 34 season passes resulting in a cash shortage of at least \$1,020 (34 times \$30). The staff member stated he gave away approximately 30 season

passes to players, students, their families, and school staff.

B. DCHS failed to ensure that the staff member followed adequate procedures regarding the football season pass fundraiser. *The Tennessee Internal School Uniform Accounting Policy Manual* provides that for ongoing resale activities monthly profit analysis reports must be completed to document collections, expenses, and any losses of money or product. The school must maintain detailed records to support all amounts recorded on these forms. If the profit analysis report indicates a shortage, an explanation must be given for the shortage. For activities that are not perpetual in nature, profit analysis reports may be completed after the conclusion of the activity. In addition, school officials were unable to account for the disbursement of some of the Pioneer Nation t-shirts purchased for the fundraiser.

RECOMMENDATION:

A. DCHS officials should take steps to recover the \$1,020 cash shortage.

B. For each resale activity, DCHS should ensure they comply with the provisions established by *The Tennessee Internal School Uniform Accounting Policy Manual*. The account sponsor or other designee should prepare an accurate profit analysis.

FINDING 2: David Crockett High School had deficiencies in baseball concession operations

DCHS failed to ensure that adequate controls over concession operations (collections) were established and followed. As a result, the accuracy of amounts

recorded as collected could not be determined. In one instance, over two months lapsed between the date some concession funds were collected during a series of summer baseball games and the date these funds were received by the DCHS bookkeeper. In addition, the school staff member responsible for concessions used personal funds to provide the initial inventory of food and drinks for concessions and then restocked inventory with profits from the sale of concessions. *The Tennessee Internal School Uniform Accounting Policy Manual* provides money or property received by a school official, employee, or volunteer, acting in his or her official capacity, becomes public money or property. The money is the property of the respective school. Such money must be appropriately managed and safeguarded by the school.

RECOMMENDATION:

DCHS should provide adequate oversight over athletic event concession sales and ensure controls over collections as set forth in *The Tennessee Internal School Uniform Accounting Policy Manual* are established and followed. Concession sale proceeds should be deposited intact within three days after the money is collected. When possible, collections should be deposited daily, and a night deposit could be used when necessary to comply with these provisions. Concessions inventory should be purchased through the school's normal purchasing procedures.

INTERNAL CONTROL DEFICIENCY

DCHS officials failed to segregate financial duties adequately or to provide increased oversight when appropriate. The DCHS bookkeeper received collections,

issued receipts, maintained the accounting records, and delivered deposits to the bank. Officials should segregate duties to the extent possible using available resources.

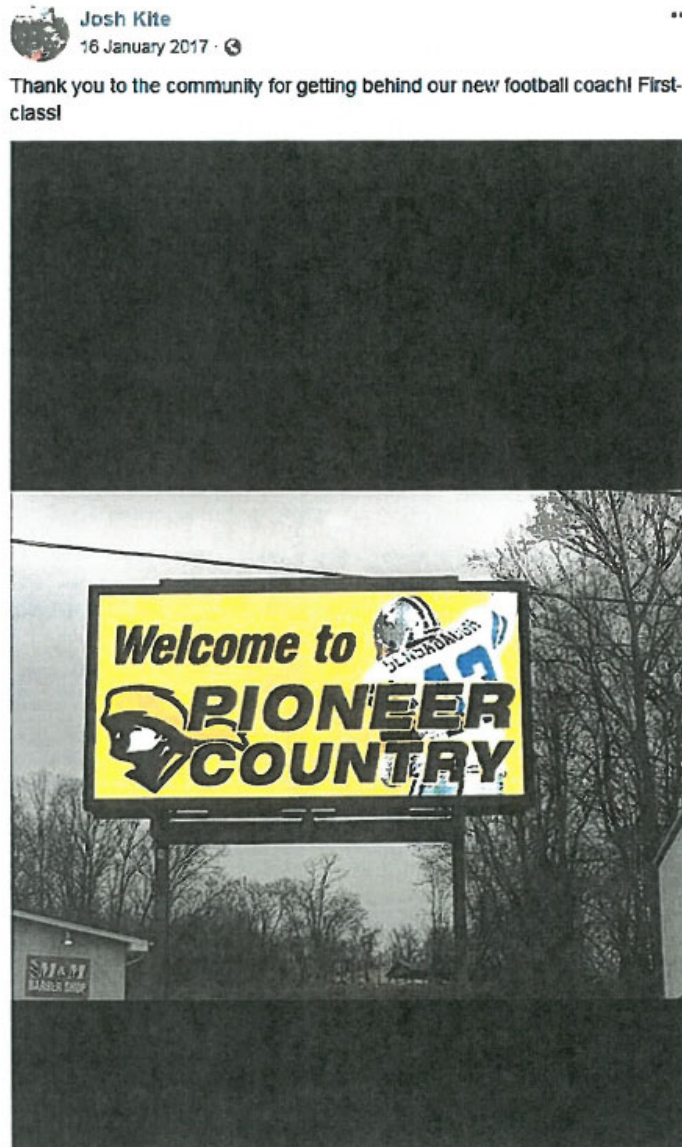
**MANAGEMENT'S RESPONSE (PARAPHRASED) —
KIMBER HALLIBURTON, DIRECTOR OF SCHOOLS**

Recently the Washington County Department of Education's new finance director has implemented several new policies to comply with *The Tennessee Internal School Uniform Accounting Policy Manual*. Some of these new policies and procedures are as follows.

- All funds received on behalf of the school will be counted at the end of the day/event by two school employees and documented on a cash count form. Both employees will sign this form verifying the total funds collected.
- All funds will be stored appropriately on school property, if at all possible, so the school book-keeper can receive the funds and deposit them the next business day, but no longer than three business days.
- All inventory items for concessions purchased must go through the school activity fund account unless an unforeseen emergency situation occurs. If this would occur, the principal and athletic director must be notified and approve a reimbursement request for the items required for the emergency need.
- All relevant duties are to be segregated to the fullest extent possible in each given situation.

- The athletic director is directly responsible for working with the bookkeeper to ensure the above is implemented appropriately with any discrepancies being reported to the director of finance immediately.

**SOCIAL MEDIA POSTS: JOSH KITE AND
KIMBER HALLIBURTON
(JANUARY 2017-APRIL 2017)**



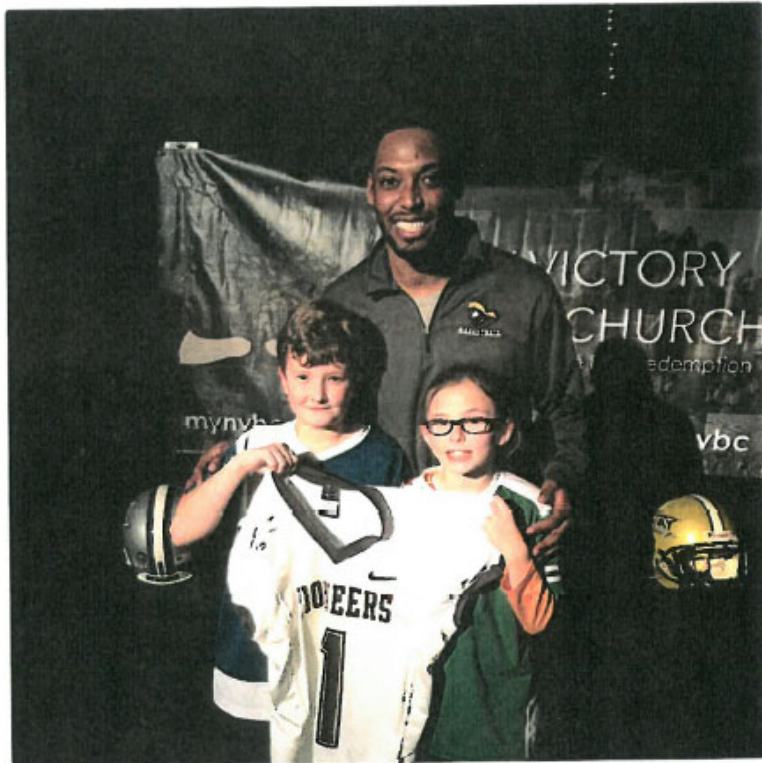


Josh Kite
@WCDSouthAD

Follow



Pioneer Proud!



Josh Kite

16 January 2017

Thank you to the community for getting behind our new football coach! First Class !

Josh Kite

@WCDSouthAD

Pioneer Proud !



Kimber Halliburton
@Kimberhalliburt

Follow



Coach @Gsensabaugh43 already part of our
@WCDE_TN community Reading to 1st grade
classroom @GrandviewES
#thewashingtonway



10:46 AM - 2 Feb 2017 from Johnson City, TN

12 Retweets 38 Likes



12

38



Kimber Halliburton
@Kimberhalliburt

Follow



@boone_principal @PeggyDWright1 Guess
who got their picture taken with Coach
@Gsensabaugh43 @WCDE_TN



1:07 PM - 8 Apr 2017

4 Retweets 19 Likes



4

19



Kimber Halliburton
@Kimberhalliburt

Follow



Was with excellent company today. Great ballgame from both teams @BooneAthletics @boone_principal vs. @PioneerNation2 @PeggyDWright1



2:30 PM - 8 Apr 2017

12 Retweets 30 Likes



12

38

**SOCIAL MEDIA POSTS: KIMBER HALLIBURTON,
PRINCIPAL COMBS, PEGGY WRIGHT, AND
JONESBORO ELEMENTARY
(SEPTEMBER 22, 2017)**



Kimber Halliburton
@Kimberhalliburt

Follow



@WCDE_TN Teachers. Join me & catch the
Friday Fever For Instruction! Teach it! Bell 2
Bell delivery is what YOU do best!
#EvenBetter #Rigor



4:39 AM - 22 Sep 2017

12 Retweets 19 Likes

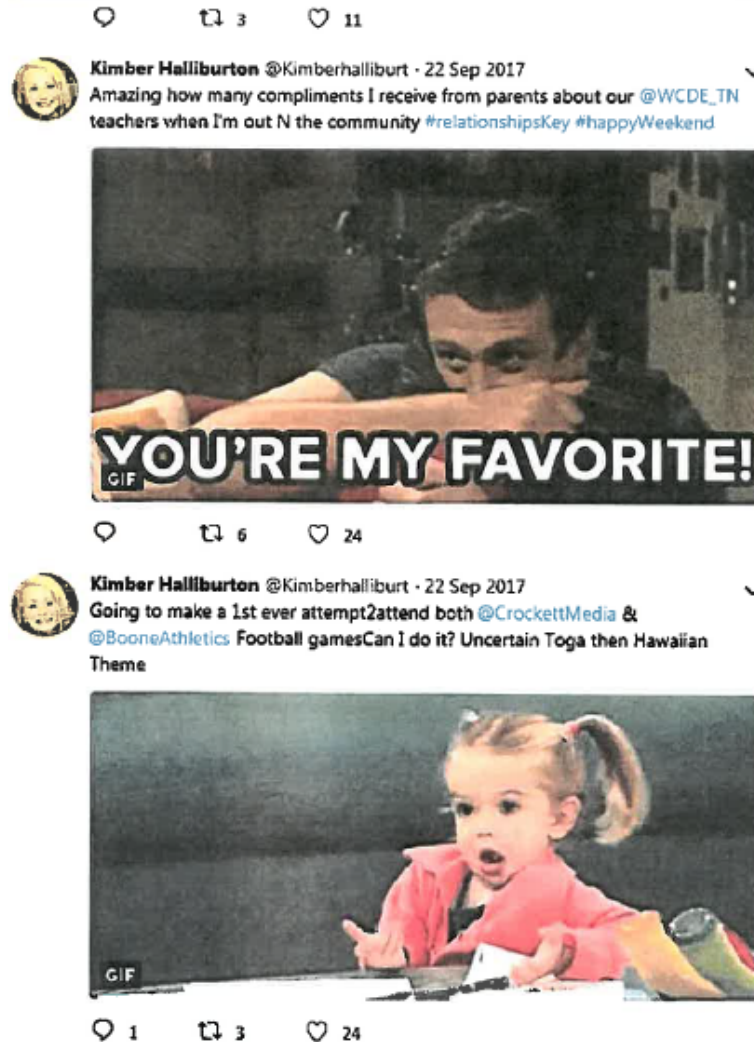


12

19



Kimber Halliburton @Kimberhalliburt 22 Sep 2017
@WCDE_TN Teachers. Join me & catch the Friday
Fever for Instruction! Teach it! Bell 2 Bell delivery is
what YOU do best! #EvenBetter #Rigor



Kimber Halliburton @Kimberhalliburt 22 Sep 2017
Amazing how many compliments I receive from parents about our @WCDE_TN teachers when I'm out N the community #relationshipsKey #happyWeekend

Going to make a 1st ever attempt2attend both @CrockettMedia & @BooneAthletics Football GamesCan I do it? Uncertain Toga then Hawaiian Theme



🗨 5 ❤️ 38



Kimber Halliburton @Kimberhalliburt · 22 Sep 2017

@MengeBrandi @kaaleigherling What a beauty! I've seen cheerleaders in my day, but this one takes the cake!



🗨 3 ❤️ 11

Kimber Halliburton @Kimberhalliburt 22 Sep 2017
@MengeBrandi @kaaleigherling What a beauty! I've
seen cheerleaders in my day, but this one takes the
cake!



Kimber Halliburton @Kimberhalliburt 22 Sep 2017
@WCDE_TN Teachers, Join me @ catch the Friday
Fever for Instruction! Teach it! Bell 2 Bell delivery is
what YOU do best. #EvenBetter #Rigor



Matt Combs @matt_combs10 22 Sep 2017

Ms. Osborne utilizing interactive read aloud as part of her balanced literacy block to analyze character traits #readytobeready


Jonesborough Elem
@JES_tigers

Tweets
1,382

Following
81

Followers
548

Likes
1,598

Follow


Jonesborough Elem Retweeted


goodreads @goodreads · 22 Sep 2017
It's Friday! What will you be reading this weekend?

 815
 103
 614


Jonesborough Elem Retweeted


Matt Combs @matt_combs10 · 22 Sep 2017
Using graphic organizers to take notes and summarize text on Spanish explorers combines two of Marzano's high yield strategies #evenbetter



Robert J. Marzano, Kimber Halliburton, WashingtonCoSch TN and 3 others


 14
 31


Jonesborough Elem Retweeted


Elliott Lowe @E_Lowe22 · 22 Sep 2017
Replying to @DaisyESanders
Thank you @D_Sander2nd I love our @JES_tigers students and the great work they do!!


 3
 8

Matt Combs @matt_combs10 22 Sep 2017

Using graphic organizers to take notes and summarize text on Spanish explorers combines two of Marzano's high yield strategies.



Brandi Menge @MengeBrandi 22 Sep 2017

Thanks to the @DCHSpioneers cheerleaders for being so sweet to the JrPioneers! @Kimberhalliburt @kaeleighgerling



Kelly Casey @kal_casey 22 Sep 2017

Look who's in Pioneer Count! @PeggyDWright1
@WCDE_TN @Kimberhalliburt



Kimber Halliburton @Kimberhalliburt 22 Sep 2017
A @CrockettMedia Mom, WC Teacher, Principal, & Alumni at the game. Life is good when you're a Pioneer!



Peggy D. Wright Retweeted

Pioneer Press@DCpioneerpress 22 Sep 2017

Final! Crockett WINS! @Kimberhalliburt

@PeggyDwright1



Peggy D. Wright Retweeted

Pioneer Press@DCpioneerpress 22 Sep 2017

Crockett v. Hampton @Kimberhalliburt @PeggyDWright1 @Gsensabaugh43



Peggy D. Wright Retweeted

Pioneer Press@DCpioneerpress 22 Sep 2017

Pioneer Marching Band, Cheerleaders & Dance Team
host WUHL's kickoff Friday.



Peggy D. Wright @PeggyDWright1 22 Sep 2017
So proud of DCHS athlete Breanna Roy for Player of the Week #PioneerProud



Matt Combs
@matt_combs10

Follow



Using graphic organizers to take notes and summarize text on Spanish explorers combines two of Marzano's high yield strategies [#evenbetter](#)



9:12 AM - 22 Sep 2017

14 Retweets 31 Likes



Robert J. Marzano, Kimber Halliburton, WashingtonCoSch TN and 3 others



14

31



Daisy Sanders @DaisyESanders · 21 Sep 2017

I love that my instructional assistant, Elliott believes in verbal and written feedback to students. Way to go! #positive



3

6

27



Matt Combs

@matt_combs10

Follow

Replying to @DaisyESanders

Quality academic feedback produces an effect size of .72 according to John Hattie
@VisibleLearning keep up the great work!
#EvenBetter

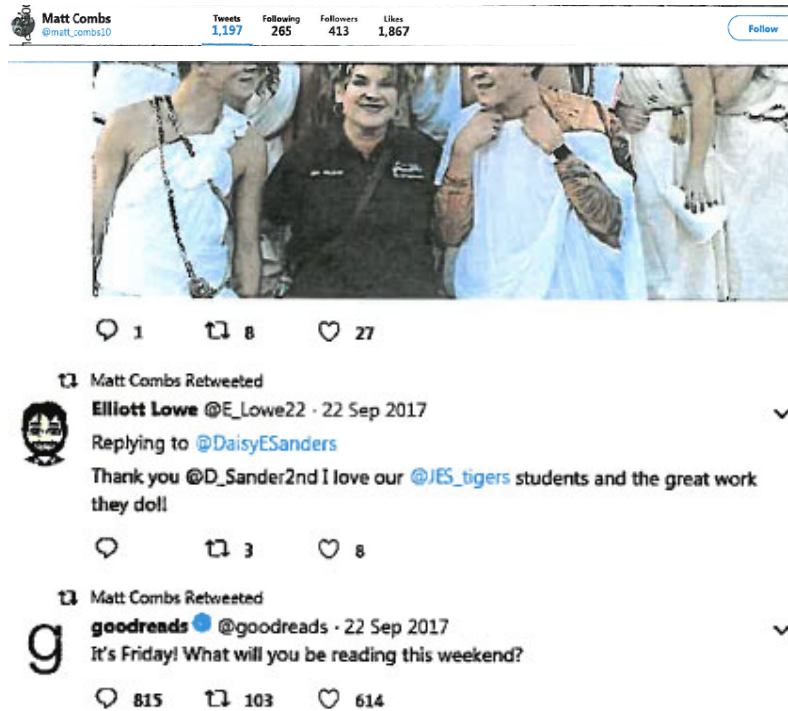
3:58 AM - 22 Sep 2017

3 Retweets 6 Likes



3

6



Matt Combs Retweeted

Elliott Lowe @E_Lowe22 22 Sep 2017

Replying to @DaisyESanders

Thank you @D_Sander2nd I love our @JES_tigers students and the great work they do!



WashingtonCoSch TN
@WCDE_TN

Follow



Analyzing and summarizing text thru storyboards @Lamar_School Connecting Social Studies and writing! Way2Go!! #rigorinaction @RLGMike

Epic of Gilgamesh

G13 Analyze the important achievements of Mesopotamian civilization, including its system of writing, literature, monumental



11:19 AM - 22 Sep 2017

9 Retweets 18 Likes



Kimber Halliburton and Stephanie Gouge



9

18

SENSABAUGH FACEBOOK POST (SEPTEMBER 22, 2017)

{Image}



Gerald Sensabaugh updated his status.
22 September 2017 ·

The real problem in Washington County:

Our last football game vs. Cocke County a kid wanted to meet me because he was a fan and we were unable to link up after the game. Today I went to his school Jonesborough Elementary to surprise him and his class. As I got escorted to his class I noticed that classrooms were divided by partitions instead of walls. Kids could literally hear other classroom noise and I could see how kids would not be able to focus. It's pretty much an open floor plan with few walls. I also walked by another class and seen kids reading in to cardboard box cubicles on top of their desks. Being from Oakland California I haven't seen that since the days when I use to get trouble in class and my teachers made me sit in the corner with the same setup. This was 1989-1994. This was the worst school learning environment I have ever seen. Im sure that the staff and students of this school are wonderful, however this is an antiquated method of instruction. In my opinion, the opportunity for students to focus on learning is impossible in these conditions. I heard a story from a former student about a rat running through one of the classrooms and the kids went crazy and it interrupted the whole school. Those who don't know me; I'm all about positive change. I called a current County Commissioners and expressed my concerns about this learning environment. He then gave me a bunch of excuses and said they have it in the plans for the next 2-3 years. I then ask him when they are building all these programs for ETSU does that take 2-3 years? and next thing I know he tells me "I understand how you feel" then hung the phone up on me. I feel bad now for asking for sports facility upgrades, equipment upgrades, more coaches pay, more athletic trainers etc., when obviously the County can't afford to build walls within a school. This community needs to support and help build a better tomorrow for our youth because they are who will be running this place in the future!!!!

591 Likes 187 Comments 369 Shares

Patti Jo Smith, David Woods, Kathleen Johnson and 588 others like this.

369 shares



Kimberley Harrell Be the agent of change! 🙌

35w



Amber Steven Honeycutt Exactly This has been my argument since I learned of the "new" System of teaching.. I don't like it, I don't agree with it and I hope that this will be changed sooner than later... Thank you Gerald Sensabaugh for noticing and attempting to do something about it.. Our schools is our childrens future.. We have to get some goo teaching and learning methods back into our classrooms.... its really sad .. Stay on it, I am sure many will support you and your thoughts on this as many agree with you.

35w



Melissa Haney McFarland He is commenting on the facilities, not the teaching. JES has been in need of a better facility for many years. They have great teachers.

35w



George Pierce Great teachers but the teaching and learning method of open classrooms! That's I feel why she mentioned teaching and learning methods

35w



Davi Sweeney I not only attended this school, but taught there for a short time. While this wonderful administration and staff "make due", it is sad, I remember trying to take spelling test in 2nd and 3rd grade while the class on the other side of the petition were having music. It is not an ideal learning environment,

Gerald Sensabaugh updated his status.
22 September 2017

The real problem in Washington County:

Our last football game vs. Cocke County a kid wanted to meet me because he was a fan and we were unable to link up after the game. Today I went to his school Jonesborough Elementary to surprise him and his class. As I got escorted to his class I noticed that classrooms were divided by partitions instead of walls. Kids could literally hear other classroom noise and I could see how kids would not be able to focus. It's pretty much a open floor plan with few walls. I also walked by another class and seen kids reading in to cardboard box cubicles on top of their desks. Being from Oakland California I haven't seen that since the days when I use to get trouble in class and my teachers made me sit in the corner with the same setup. This was 1989-1994. This was the worst school learning environment I have ever seen. Im sure that the staff and students of this school are wonderful, however this is an antiquated method of instruction. In my opinion, the opportunity for students to focus on learning is impossible in these conditions. I heard a story from a former student about a rat running through one of the classrooms and the kids went crazy and it interrupted the whole school. Those who don't know me; I'm all about positive change. I called a current County Commissioners and expressed my concerns about this learning environment. He then gave me a bunch of excuses and said they have it in the plans for the next 2-3 years. I then ask him when they are building all these programs for ETSU does that take 2-3 years? and next thing I know he tells me "I understand how you feel" then hung the phone up

on me. I feel bad now for asking for sports facility upgrades, equipment upgrades, more coaches pay, more athletic trainers etc., when obviously the County can't afford to build walls within a school. This community needs to support and help build a better tomorrow for our youth because they are who will be running this place in the future!!!!

591 Likes 187 Comments 369 Shares

Patti Jo Smith, David Woods, Kathleen Johnson and 588 others like this.

369 shares

Kimberley Harrell: Be the agent of change!

35w

Amber Steven Honeycutt: Exactly This has been my argument since I learned of the "new" System of teaching.. I don't like it, I don't agree with it and I hope that this will be changed sooner than later . . . Thank you Gerald Sensabaugh for noticing and attempting to do something about it . . Our schools is our childrens future . . We have to get some goo teaching and learning methods back into our classrooms its really sad Stay on it, I am sure many will support you and your thoughts on this as many agree with you.

35w

Melissa Haney McFarland: He is commenting on the facilities, not the teaching. JES has been in need of a better facility for many years. They have great teachers.

35w

George Pierce: Great teachers but the teaching and learning method of open classrooms! That's I feel why she mentioned teaching and learning methods

35w

Davi Sweeney: I not only attended this school, but taught there for a short time. While this wonderful administration and staff "make due", it is sad. I remember trying to take spelling test in 2nd and 3rd grade while the class on the other side of the petition were having music. It is not an ideal learning environment,

SENSABAUGH FACEBOOK POST (SEPTEMBER 24, 2017)



Gerald Sensabaugh

24 September 2017 ·

The real problem in Washington County Pt. 2

The movie Life came on TV last night starring Martin Lawrence and Eddie Murphy. One of my favorite movies of all time (very funny movie with a lot of seriousness to take from it). The movie is set during the Prohibition era which was from 1920-1933 I believe. One thing you notice in the movie is that the prisoners are forced to do hard labor for the state (chain gangs). Tell me why just about every morning when I'm on my way to Jonesborough (which is a lovely, beautiful ride) that I have to drive by prisoners doing multiple types of labor for the city? See them cutting grass, picking up trash, ect. What bothers me at David Crockett is that prisoners are always on campus doing work during school hours and also while I've been practicing with my team. Our football stadium needs to be condemned but its been freshly painted, which actually looks really good. Guess who was out there painting the stadium seats? Prisoners..... not professional businesses that specialize in painting. Coming from Dobyne Bennett High School, I have never seen prisoners doing any work on campus especially while we were there trying to learn. This is a major area of concern for many obvious reasons. I would never allow my kids to go to a school where prisoners are freely walking around doing jobs. No disrespect to the Prisoners but I want to know, "Who gives the okay to support this"? I have a friend of mine that owns a landscaping business in Kingsport and he has City contracts to maintain yards for city housing complexes and more. My next question to whoever okays this..... Do you allow prisoners to cut your grass and do repairs to your house while your kids are running around? I share all my thoughts with my wife and one day I asked her about my kids going to David Crockett since I'm the Head coach there? "Hell No", was her response..... and I agreed. Who allows this to be a part of Washington County Schools? I wonder if the kids at Science Hill or University High have to look at this while in their learning environment? Prisoner Pic was a random pic from google (not real prisoners in our area). I'm just trying to bring awareness that the kids of Washington County deserve better. The kids in the schools are really good kids!!!!



175 Likes 57 Comments 54 Shares

Daniel Grace, Taleen Norman, Debbie Carver and 172 others like this.

54 shares



George Pierce I'm all for prisoners doing labor for the county like trash pick up and such but I'm with you, on school grounds or during school hours is just wrong. Most of them are drunks and such but still it's just WRONG

35w

Gerald Sensabaugh
24 September 2017

The real problem in Washington County Pt. 2

The movie Life came on TV last night starring Martin Lawrence and Eddie Murphy. One of my favorite movies of all time (very funny movie with a lot of seriousness to take from it). The movie is set during the Prohibition era which was from 1920-1933 I believe. One thing you notice in the movie is that the prisoners are forced to do hard labor for the state (chain gangs). Tell me why just about every morning when I'm on my way to Jonesborough (which is a lovely, beautiful ride) that I have to drive by prisoners doing multiple types of labor for the city? See them cutting grass, picking up trash, ect. What bothers me at David Crockett is that prisoners are always on campus doing work during school hours and also while I've been practicing with my team. Our football stadium needs to be condemned but its been freshly painted, which actually looks really good. Guess who was out there painting the stadium seats? Prisoners not professional businesses that specialize in painting. Coming from Dobyns Bennett High School, I have never seen prisoners doing any work on campus especially while we were there trying to learn. This is a major area of concern for many obvious reasons. I would never allow my kids to go to a school where prisoners are freely walking around doing jobs. No disrespect to the Prisoners but I want to know, 'Who gives the okay to support this'? I have a friend of mine that owns a landscaping business in kingsport and he has City contracts to maintain yards for city housing complexes and more. My next question to whoever okays this Do you allow prisoners to cut your

grass and do repairs to your house while your kids are running around? I share all my thoughts with my wife and one day I asked her about my kids going to David Crockett since I'm the Head coach there? "Hell No", was her response . . . and I agreed. Who allows this to be a part of Washington County Schools? I wonder if the kids at Science Hill or University High have to look at this while in their learning environment? Prisoner Pic was a random pic from google (not real prisoners in our area). I'm just trying to bring awareness that the kids of Washington County deserve better. The kids in the schools are really good kids!!!!

175 Likes 57 Comments 54 Shares

Daniel Grace, Taleen Norman, Debbie Carver and 172 others like this.

54 shares

George Pierce: I'm all for prisoners doing labor for the county like trash pick up and such but I'm with you, on school grounds or during school hours is just wrong. Most of them are dui's and such but still it's just WRONG

35w