

**SOAH DOCKET NO. 701-06-1196.EC**

<b>TEA/DIVISION OF EDUCATOR CERTIFICATION AND STANDARDS, Petitioner</b>	§ § § § § § § §	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
<b>VS.</b>		
<b>JOELLE OGLETREE, Respondent</b>		

**PROPOSAL FOR DECISION**

The staff of the Texas Education Agency, State Board for Educator Certification (SBEC) brought this disciplinary action against Joelle Ogletree seeking revocation of her Texas Educator Certificate (teaching certificate) based on allegations that she had engaged in sexual misconduct with two of her male students and that she otherwise acted inappropriately while discharging her responsibilities as a high school teacher. Also, Ms. Ogletree has applied for renewal of her teaching certificate, which Staff opposes. Ms. Ogletree denies all of the allegations.

Based on the evidence, the Administrative Law Judge (ALJ) concludes that Ms. Ogletree did not engage in the alleged misconduct. Consequently, no disciplinary action should be taken against her teaching certificate, and her application for license renewal should be granted in its entirety.

**I. NOTICE, AND JURISDICTION**

There are no contested issues of jurisdiction or notice in this proceeding. Therefore, those matters are set out in the proposed findings of fact and conclusions of law without discussion here.

## II. PROCEDURAL HISTORY

### A. Hearing

The hearing in this proceeding was held June 20-22, 2006, before the State Office of Administrative Hearings (“SOAH”), with Administrative Law Judge Gary W. Elkins presiding. Staff appeared and was represented by Attorneys Joyce Smith and Christopher Jones. Ms. Ogletree appeared and was represented by Tony Connors, Attorney at Law. The hearing record closed on June 22, 2006.

### B. Background

In January 2004, SBEC initiated an investigation into Ms. Ogletree’s fitness to be certificated as a teacher. The investigation arose from a January 2003 criminal indictment against Ms. Ogletree alleging that she had engaged in sexual contact with three of her male students. Ms. Ogletree categorically denied that any of the alleged misconduct had occurred.

In January 2005, Staff informed Ms. Ogletree that a formal complaint had been filed against her and that as a result of her indictment and the complaint SBEC was initiating an investigation into the allegations of sexual misconduct.

On June 5, 2005, Ms. Ogletree filed an application to renew her certificate, which was set to expire on August 31, 2005, six years after its issuance. On August 18, 2005, she followed up with an inquiry to SBEC on the status of her application. The expiration date passed without action by SBEC on the application.

On December 7, 2005, Staff informed Ms. Ogletree in response to her August inquiry that Staff was in the process of preparing a petition to revoke her educator certificate. Staff explained, though, that because the certificate had expired on August 31, 2005, there was no certificate to

address via a petition for sanctions or revocation. Staff followed up with a letter the next day, informing Ms. Ogletree that her application had been denied due to “an ongoing open case.”<sup>1</sup> In response to being informed of the denial of her application, Ms. Ogletree filed a Petition for Review on December 29, 2005 requesting a hearing.

Upon acknowledging that the Administrative Procedure Act<sup>2</sup> tolls the expiration of a license that is under investigation until the licensing authority takes final action on the license, Staff agreed that Ms. Ogletree’s license had not expired on August 31, 2005, as previously represented.

On April 7, 2006, Staff filed its first formal complaint against Ms. Ogletree. The complaint placed the burden of proof on Ms. Ogletree to show that Staff “did not have satisfactory evidence supporting the factual and legal basis for administratively denying [the] application.” Ultimately, however, Staff and Ms. Ogletree agreed that based on the nature of the proceeding—as a license enforcement matter—Staff bore the burden of proving that the alleged misconduct occurred. The Administrative Law Judge agreed, and hearing proceeded with Staff bearing the burden of proof.

Staff filed its Amended Complaint on April 27, 2006 and Second Amended Complaint on May 12, 2006. It is the Second Amended Complaint upon which the hearing and this PFD were based.

### III. EVIDENCE

#### A. Summary of Evidence

The hearing consisted of three days of testimony by approximately fifteen persons, including one alleged victim, Ms. Ogletree, her husband, her cousin, seven ex-students, and three current or

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<sup>1</sup> The record lacks any formal order or letter denying Ms. Ogletree’s renewal application.

<sup>2</sup> TEX. GOV’T CODE ANN. ch. 2001.

retired teachers from Glen Rose High School. The testimony of a second alleged victim was elicited via deposition. Also in the evidentiary record were nineteen exhibits that included prior statements by the alleged victims to investigative authorities, depositions of alleged victims, and photos and diagrams of the high school.

### **B. Summary of Conclusion and Recommendation**

Based on the implausible and even impossible nature of the allegations, combined with the lack of veracity of the accusers contrasted with the consistent, credible testimony of Ms. Ogletree and her witnesses, the ALJ concludes Staff wholly failed to prove its allegations. Consequently, no disciplinary action should be taken against Ms. Ogletree's teaching certificate, and her renewal application should be granted without delay.

### **C. Allegations**

Staff alleges the following:

1. That while employed as a French teacher at Glen Rose High School, Ms. Ogletree fondled and kissed male students for her sexual gratification and behaved inappropriately by using profanity and playing an "I've Never" game in the classroom for the purpose of discussing sexual subjects.
2. That while Chayce W. was a student in Ms. Ogletree's classroom, she exhibited the following behavior toward him:
  - In an incident during the spring semester of 2002, she changed her blouse in front of him while only she and he were in the classroom.
  - She caressed his penis through his pants and exclaimed "wow" in a later incident of sexual conduct the same spring; began writing Chayce W. notes and asked if she "could do it" again, telling him not to tell his friends; and asked him if he was angry with her when he started limiting his contact with her.

- The following summer Ms. Ogletree asked Chayce to come to her house to help move furniture but he declined.
  - The following fall Ms. Ogletree began wearing low-cut blouses and short skirts, sitting with her legs spread open, and bending down over Chayce and other male students while assisting them in class, allowing an unobstructed view of her breasts.
  - In the fall of 2002, while Chayce was a junior, Ms. Ogletree invited him to her classroom to watch her as she changed from her flag uniform to her school attire, hastily telling him on one occasion while he was outside her classroom, “Not today. Maybe tomorrow.”<sup>3</sup>
  - In another incident during the fall semester, Ms. Ogletree visited Chayce’s place of employment—a video rental store—and apologized to him for kissing a classmate of his.
  - Throughout the fall semester, Ms. Ogletree played the “I’ve Never” game in her classroom, which consisted primarily of “sex talks,” sexual innuendo, and dares, and included Ms. Ogletree’s use of profanity.
  - Ms. Ogletree’s sexual innuendos and flirting continued toward Chayce and two male classmates despite their having moved to the back of the classroom.
  - During both the spring and fall semesters of 2002, Ms. Ogletree consistently wrote personal notes to Chayce on her desk and would physically rub against him whenever she could.
  - Ms. Ogletree first began caressing Chayce’s penis over his clothing during her lunch period and between classes during the 2001-2002 school year, while she was changing from her band uniform to her classroom clothes.
3. That while Matthew B. was a student in Ms. Ogletree’s classroom, she exhibited the following behavior toward him:
- In July 2002, the summer before Matthew B.’s junior year in high school and third year in Ms. Ogletree’s French class, she called him at home and asked

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<sup>3</sup> The record repeatedly indicates that Chayce claimed the incident had occurred in the spring of 2002, not the following fall. Consequently, this allegation appears to erroneously reflect the assertions upon which it is based.

if he would be willing to come over and help her move some furniture. Upon Matthew's arrival at Ms. Ogletree's house, he discovered he was the only student there. Ms. Ogletree sat next to him, began talking to him about what would happen to her if she kissed a student, and then began "French" kissing him. She then asked him if it was good, to which he nodded. He then stood up and left her house.

- During about the second week of the fall 2002 semester, Ms. Ogletree began flirting with Matthew B., rubbing against him, and bending over him and other male student so they could clearly see her breasts.
- In September 2002, Ms. Ogletree began giving Matthew B. encrypted notes with sexually explicit interpretations.
- Oral sex was discussed during the "I've Never" game in Ms. Ogletree's classroom during both the spring and fall 2002 semesters.

#### **D. Allegations Relating to Chayce W.**

Because Chayce did not appear at the hearing, Staff and Ms. Ogletree relied on his deposition and on recordings of Chayce's interviews with the Department of Family and Protective Services–Child Protective Services (CPS).

##### **1. Chayce W.'s Deposition Testimony and Recorded Interviews**

###### **a. Relationship with Ms. Ogletree**

Alleged victim Chayce W. characterized the atmosphere in Ms. Ogletree's French class as "laid-back." He commented that the class did not do much French: "We did do French, but very little French." He described his relationship with Ms. Ogletree as "pretty good friends, I guess you would say, in a weird way. I mean, meaning just she was a teacher and I was a student, we're still, you know, we'd talk bout life . . . ." Chayce confirmed Ms. Ogletree was friendly to him, just as she was with other students. When asked whether he thought Ms. Ogletree was flirting with him, Chayce responded:

We, we were, flirty just, up until the time, or close to the time of the second semester, you know I never had a thought in my mind that, you know, this would ever happen. So I never took it as her flirting because you know or us flirting thinking it was going but just us being goofy, because I was a, you know, a flirty, goofy kid that was just, you know, always cracking jokes. And I thought she was the same way. And, so up until the time, you know I wouldn't have said that she was flirting with me, until the second semester where I would say that we were flirting with each other.<sup>4</sup>

When asked how the two of them would go about flirting, Chayce responded:

Well, the majority of our class time was spent, we'd do a little bit of French, maybe at the beginning or the end. But the majority of the time was just, you know, we'd get our work done, whatever little it was, and we'd just talk and, you know, some girls at the back of the classroom would do their own thing, and me and a few other boys and maybe a girl. I think it was just me and Sam and Matt and Beau . . . would just come up to her desk and talk to her. And, the talking just got more and more . . . approaching the line. But we didn't care, I mean it's just, just talked about life or whatever.

When asked how Ms. Ogletree flirted with him, Chayce responded that she "wore pretty risqué clothing for a teacher." He agreed, though, that Ms. Ogletree's choice of risqué clothing would not constitute flirting just with him. He then added that close to the time of the first incident of sexual misconduct he and Ms. Ogletree started writing notes to each other: "Notes not necessarily saying hey, let's do this, but notes that were over the line, talking about, just inappropriate stuff, like you know, hanging out and kissing or whatever."<sup>5</sup>

Chayce explained that while he was at Ms. Ogletree's desk she would write him a note and slide it to him, and he would write something and slide it back. He could not recall how many notes were written. He also stated that he did not think anyone else saw the notes; he knew of no one who could testify that they saw them; he did not report the notes to anyone; and he did not keep any of them.

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<sup>4</sup> Ex. R-1, p. 11.

<sup>5</sup> Ex. R-1, p. 12.

When asked whether he thought the notes were appropriate, Chayce responded, “No, I didn’t care.” He described the notes as containing “mainly teasing stuff . . . . Stuff like you know, I bet you wouldn’t do this, or you know, and some of the notes weren’t necessarily directed towards us two, just directed towards things . . . that I was doing in school, girl that I was with. And stuff like that.”<sup>6</sup> Chayce agreed that the way Ms. Ogletree dressed in class, the way she carried herself in class, and the fact that they had exchanged notes suggested she was teasing him, and the way they acted toward each other made him think they were flirting with each other.

**b. First Classroom Incident**

According to Chayce W., the first sexual contact between him and Ms. Ogletree occurred in the spring of 2002, when he entered her classroom and she changed from the uniform she wore as sponsor of the school’s color guard. He stated that he saw her bra while she was changing; it had a pink leopard print. The two of them then went and sat behind her desk, where they teased each other and joked about kissing and touching. Chayce noted, though, that the teasing event may have occurred on a separate occasion because he and Ms. Ogletree may not have had time on that occasion to sit behind her desk before class started. He estimated he was in Ms. Ogletree’s classroom for five-to-ten minutes on that occasion. He added that he did not know whether the door was locked when the incident occurred.<sup>7</sup>

**c. Second Classroom Incident<sup>8</sup>**

During what Chayce W. described as the second incident of sexual contact with Ms. Ogletree during the spring of 2002, he told his fourth period teacher he wanted to go to the computer lab. Upon receiving permission he went instead to Ms. Ogletree’s classroom. He recalled that it was her

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<sup>6</sup> Ex. R-1, p. 13.

<sup>7</sup> Ex. R-1, p. 7.

<sup>8</sup> Ex. R-1, p. 7-9.

conference period. He saw his class folder was on Ms. Ogletree's desk when he arrived, but they did not discuss French. Instead, he stated, they started talking about dares. Both were sitting behind Ms. Ogletree's desk and facing the door, according to Chayce. Chayce said that as they were talking, he told Ms. Ogletree he would put his hand under her skirt through the slit in the front of it. She responded that he would not, so he did. Chayce commented that he may have touched Ms. Ogletree's panties at the torso area of her leg. He said he then left for lunch because the bell was about to ring and other students may have been around. He described the incident as lasting five-to-ten minutes.

According to Chayce, it was around this time that he and Ms. Ogletree began exchanging the suggestive notes. He did not keep any of them and never mentioned them to anyone, however. Chayce also testified that Ms. Ogletree's attire was becoming more risqué and her behavior started "approaching the line" around that time. Based on the notes and Ms. Ogletree's risqué dress and comments, Chayce testified, he believed she was flirting with him.

**d. Third Classroom Incident**

Chayce described the third incident of sexual contact with Ms. Ogletree as going farther than the second. As with the prior incident, he asked his fourth period teacher if he could visit the computer lab, but instead of going to the lab he proceeded to Ms. Ogletree's room. As the two sat behind Ms. Ogletree's desk with him seated to her left, Chayce stated, he put his right hand down the front of her pants and inside her panties in the vaginal area. Because Ms. Ogletree was leaning back and was not wearing a belt, he testified, her jeans were loose, thus enabling him to insert his hand even though her pants remained buttoned. While Chayce was engaging in what he described as foreplay with Ms. Ogletree, rubbing his hand up and down, she reached over with her left hand and stuck it up his shorts, grabbed his penis, and began masturbating him. However, the two had to quickly stop upon being surprised by another student who had entered the room, though Chayce stated he did not believe the student knew what was going on:

Jumped up real quick, kind of stiffed up, it was obvious from the expression that he wasn't really paying attention, that he was just coming in there to do what he was going to do, and, so, we realized that he was oblivious, and I left.<sup>9</sup>

Chayce's recollection of the incident during his deposition was noteworthy: When asked again how he reacted to being surprised by the student entering the room, Chayce testified, "After he was gone or after he stayed there or whatever, I left pretty quick to go to the lunch area."

Chayce estimated that this incident, too, lasted about ten minutes; he said his fingers were inside Ms. Ogletree's vagina for about five of them. He added that he did not recall whether he asked Ms. Ogletree to stick her hands up his shorts, but he probably did.<sup>10</sup>

#### **e. Fourth Classroom Incident**

The fourth sexual encounter with Ms. Ogletree began like the preceding two, Chayce testified, when he again asked his fourth period teacher if he could visit the computer lab. He stated that as he entered Ms. Ogletree's room, she locked the door behind him. He walked to a chair in the middle of the room and sat down, at which time Ms. Ogletree straddled him and, as he described it, began "grinding." He stated that the two of them then moved to the floor, sitting side-by-side but in opposite directions, facing each other. Chayce said he pulled his pants and boxers down and she began masturbating him. He did likewise with her, describing her attire as a skirt and see-through panties. According to Chayce, Ms. Ogletree had agreed to wear the skirt on his request.

Chayce said he then asked Ms. Ogletree to perform oral sex on him, which she did for about four seconds, but she then quit, saying she did not want to go that far. He stated that they then briefly "French" kissed, but it was the first and last time they did so. Ms. Ogletree then proceeded to change

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<sup>9</sup> Ex. R-1, p. 42.

<sup>10</sup> Ex. R-1, pp. 9-10.

out of her skirt, showing him her breasts while changing because he asked her to.<sup>11</sup>

**f. Ms. Ogletree's Visit to Video Store**

Chayce also told of an incident when Ms. Ogletree visited the video store where he worked. While there, according to Chayce, she approached him and apologized for having kissed Matt B. He stated that she approached the counter where he was working "and spoke with me about rumor [sic] and asked me if I was upset about the rumor" about Matt and her. Chayce explained that at the time the rumors about Ms. Ogletree and Matt were going around. He testified that he told Ms. Ogletree he was not upset, and that was basically it. He said she then left the store pretty quickly.

**g. Chayce's Reporting of Ms. Ogletree's Alleged Misconduct**

In his deposition, Chayce stated that he did not report any of the incidents until he was interviewed by the school counselor and a school police officer about them in October 2002. He was also interviewed by Child Protective Services. Although he told the truth during the interviews, Chayce testified, he left some things out, such as Ms. Ogletree's masturbating him and performing oral sex on him. He agreed, though, that because he had been asked during early interviews about the allegations to tell everything, he was not being truthful in later interviews by leaving out certain events. He explained, though, that because Matt was also being interviewed he wanted to tell just enough that he would not be seen as lying.<sup>12</sup>

Chayce also acknowledged that he had prepared a hand-written statement to School Deputy Shane Tipton on October 1, 2002 in which he stated he did not believe Matt B's claim that "something went on" during the summer of 2002 when Matt visited Ms. Ogletree's house. In the statement, Chayce also claimed that Ms. Ogletree had been inappropriate and seductive the prior year,

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<sup>11</sup> Ex. R-1, pp. 10-11.

<sup>12</sup> Ex. R-1, p. 11.

and that in the fall of 2002—Chayce’s junior year—“she hinted for me to come into her room so I could watch her change.”<sup>13</sup>

Chayce added that another reason he withheld information was because he liked Ms. Ogletree and did not want to affect her job or marriage or otherwise get her in trouble. He stated that he also may have told some people the rumors were not true so that they would not think negatively of him. One girl was told nothing had happened because he liked her and did not want her to find out what had happened. He said he told another girl the same thing because she was from a home-schooled religious family and he did not want them to know about it.<sup>14</sup> Chayce added that whenever he told someone nothing had happened between him and Ms. Ogletree he was lying.

## **2. Ms. Ogletree’s Testimony About Allegations Relating to Chayce**

### **a. Ms. Ogletree’s General Denial of Allegations**

In her hearing testimony, Ms. Ogletree flatly denied all of Chayce’s allegations. She affirmed that she had never flirted with Chayce by passing him inappropriate notes; she speculated that Chayce came up with the claim because of the coded notes she had written for Matt. Likewise, she denied ever wearing tight or revealing clothes, and she never rubbed against students, used profanity, or made sexually inappropriate comments. She emphasized that she was never counseled by school officials regarding either her attire or her interaction with students. She also noted that even Sam F., the person who had retracted his allegations against her, said he never saw her touching any students.<sup>15</sup>

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<sup>13</sup> Ex. 6.

<sup>14</sup> Ex. R-1, p. 14.

<sup>15</sup> Tr. at pp. 493-94.

**b. Daily Atmosphere Around Glen Rose High School**

Ms. Ogletree confirmed that Chayce first made his allegations in October 2002 and then brought more allegations in the spring of 2003. She categorically denied that any of the four alleged sexual encounters had occurred or that she had otherwise acted improperly toward him. She also stated she could not recall even being alone with Chayce in her classroom.

Ms. Ogletree described the level of activity in the school at the time of day Chayce said he had three of the sexual encounters with her—during her fifth period conference time—as very busy, with people all over the building. She explained that fifth period at the high school—the lunch period—was divided into three 30- minute lunches, with some students going to lunch and then having their full fifth period class; others going to half of their class, then going to lunch and returning for the second half of class; and still others attending their full class, with lunch at the end. As a result, she stated, it was a very busy time of day.<sup>16</sup>

The activity in her classroom during lunch time was a “double-whammy,” according to Ms. Ogletree. Not only was it her conference period when people would be expected to come in, she explained, but it was also lunchtime. Consequently, students would frequently stop by her room after eating lunch; if they had a question about an assignment, she would go over it with them. Ms. Ogletree said many times students would just stop by and talk while she was grading papers. Even maintenance workers might stop by; she remembered two occasions when they came in and worked on the lights.<sup>17</sup>

Teachers and administrators would also stop by during fifth period, according to Ms. Ogletree. She recalled that on one occasion an English teacher came by and asked to borrow some dictionaries,

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<sup>16</sup> Tr. at p. 483.

<sup>17</sup> Tr. at p. 485.

while another time someone from the office came by and asked if Ms. Ogletree would watch the class of another teacher during her absence.

Ms. Ogletree acknowledged that all doors to classrooms, including hers, had locks on them. Many people had keys that could access them, however, including the administrators, the janitors and maintenance people, and many of the teachers. She added that even though she was a new teacher and had not yet been involved in many activities that would require access to many school facilities, even she had a master key that would allow her access to other classrooms. Regardless, Ms. Ogletree testified, not only did she not lock her door during conference period, she actually kept it open.<sup>18</sup>

**c. Alleged Incidents in Classroom**

Ms. Ogletree flatly denied that she ever would have allowed Chayce to watch her change from her color guard uniform. She also emphasized that the incident described by Chayce could not have happened in the first place because she did not become the color guard sponsor until the next school year, the fall of 2002. Furthermore, she added, there was no way Chayce could have been mistaken about when the incident allegedly had occurred because he had affirmed several times that it had happened in the spring of 2002. As for Chayce's allegation that he saw her wearing a pink leopard-print bra, Ms. Ogletree flatly denied ever having owned an animal print bra of any color.

In addition to denying Chayce's claim that he had put his hands down her buttoned and zipped blue jeans and made sexual penetration during one of the alleged incidents of sexual contact, Ms. Ogletree described the act as next to impossible to achieve. She characterized as very contorted the positions the two would have been in to accomplish what Chayce had described: He seated to her left, with his right hand down her buttoned pants; and she with her left hand up his shorts to the left, grabbing his penis. She added that had she been lying back in her chair as Chayce claimed, it would have been even more difficult to contort into the positions he described.

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<sup>18</sup> Tr. at p. 487.

Ms. Ogletree also characterized as “totally unbelievable and ridiculous” Chayce’s testimony that as they were in what would have been the extremely contorted position Ryan A. walked in on them, requiring them to instantly extricate themselves without being caught. She asserted that the incident never occurred.<sup>19</sup>

Another inconsistency in one of Chayce’s allegations, according to Ms. Ogletree, was a statement he made while being interviewed by CPS. While Chayce was describing the details of the second alleged sexual encounter with Ms. Ogletree, he stated that he went down her “pants or skirt or whatever.” During a later deposition, however, he stated that he specifically remembered she was wearing a skirt; that he had told her to do so because it would be easier.

Still another example of the inconsistencies in Chayce’s allegations, Ms. Ogletree asserted, was his statement during the CPS interview that he did not remember how he got his pants down during the fourth incident, only later to testify in a deposition that he had pulled them down. Likewise contradictory was Chayce’s statement about the incident in an officer’s report when compared to his deposition testimony. The report indicated that Ms. Ogletree had removed Chayce’s penis from his boxers and performed oral sex on him. Chayce stated in his deposition, though, that he had to coax Ms. Ogletree by asking her several times to do it.

Even Chayce’s claim that the two of them were on the floor between the rows of desks was not plausible, Ms. Ogletree testified. She said she could not see how they would be able to sit side-by-side on the floor between the desks when it is difficult just to walk down one of the rows without bumping into someone.<sup>20</sup>

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<sup>19</sup> Transcript at p. 489.

<sup>20</sup> Tr. at p. 490.

**d. Alleged Incident at Video Store**

Ms. Ogletree testified that although she was a customer of the video store where Chayce worked and often visited it, she never said anything to him about having kissed Matt or having had a relationship with him. She added that it would not seem logical that she would do such a thing in a public place. She also questioned why, if as Chayce had said there was nothing going on between them, she would apologize to him or ask if he was upset about something going on between her and someone else.<sup>21</sup>

**e. Chayce's Inability to Back Down on Story**

In support of her suspicion that Chayce may not have been able to back down on the allegations once they became public, Ms. Ogletree noted that he was from a very prominent family in town; one that owns numerous properties and businesses in town. She observed that at the time the allegations were made Chayce's father was running for city council, as evidenced by a campaign advertisement that included the following statement:

I commit to the citizens of Glen Rose to be accountable for each and every decision I make as your councilman. I will research every topic before I cast my vote. I will vote based on my Christian ethics and make no apology for doing so. I ask for your vote for a positive change.<sup>22</sup>

Ms. Ogletree opined that deep inside she believed Chayce had not meant to get caught up in the allegations; that due to the prominence of his family in the community, his pride, and his concern for what others might think, after she was fired from her job he was not able to come forward and say

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<sup>21</sup> Tr. at p. 444.

<sup>22</sup> Ex. R-12.

he had lied. She added that she believed Chayce would go to his grave unwilling to admit he had told a lie.<sup>23</sup>

Ms. Ogletree completed her testimony on direct examination by re-confirming that she had never flirted with Chayce by passing him inappropriate notes, a claim she speculated that Chayce came up with because of the notes to Matt; she never wore tight or revealing clothes nor was she ever counseled about her attire; she never rubbed up against students; she never used profanity or made sexually inappropriate comments; and she was never counseled about her interaction with students.<sup>24</sup>

### **3. Testimony of Doug Ogletree Relating to Allegations Involving Chayce**

Ms. Ogletree's husband, Doug Ogletree, is a science teacher at Glen Rose High School and an adjunct professor at Hill College in Hillsboro. Mr. Ogletree confirmed that Ms. Ogletree did not become color guard sponsor until the fall of 2002, the junior year of Chayce and Matt. Consequently, he testified, it would not have been possible for Chayce to have seen Ms. Ogletree change out of her color guard uniform during the spring of 2002, as he alleged.<sup>25</sup>

Mr. Ogletree testified that for the past fifteen years he had no class first period because, originally, he had lived in a town about 30 miles away. Consequently, the building administrator was kind enough to free him up first period in case something like a flat tire delayed his getting to work. In 1998 or 1999 he became department chair, which allowed him to have a second period off. As a result, since that time he has had no classes either first or second period.

In regard to his daily interaction with his wife while at school, Mr. Ogletree testified that the two of them would arrive at school together after taking their daughter to stay with Ms. Ogletree's

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<sup>23</sup> Tr. at p. 475.

<sup>24</sup> Tr. at pp. 493-94.

<sup>25</sup> Tr. at p. 356.

mother. Often, because he was off during first period, he would stop by to visit with Ms. Ogletree. In addition, the two of them ate lunch together every day unless, for example, either she or their daughter had a doctor's appointment. He noted that the Glen Rose schools have always tried to schedule married couples for the same lunch period.<sup>26</sup>

Mr. Ogletree confirmed that like the doors of all the classrooms, Ms. Ogletree's door had a lock on it. However, as a regular course of business the teachers keep their doors unlocked during both class periods and conference periods. He also confirmed that even if a classroom door was locked many faculty members and other employees could get in via their master keys. He explained that there are a couple of "levels" of keys, including master keys, which will allow entry into select classroom, and grand master keys, which will allow access to pretty much any room in the building. Mr. Ogletree stated that he had a master key and had used it on occasion, such as during weekends, to gain access to Ms. Ogletree's room and retrieve something for her.<sup>27</sup>

Mr. Ogletree stated that he never saw Ms. Ogletree alone with Chayce, nor did he ever suspect that she was having an improper relationship with him or any other student. He testified that he did not believe Chayce's allegations primarily because of her character but also because he did not believe someone could do in the middle of the school day what Chayce alleged Ms. Ogletree did. He explained that at that time of the day a number of students are walking around the building, up and down the halls. He characterized Chayce's allegations regarding the fourth period incidents as "making no sense whatsoever."<sup>28</sup>

Mr. Ogletree testified that Chayce's allegation regarding the clothing changing incident occurring in the spring of 2002 immediately casts doubt on the claim because Ms. Ogletree would not have had clothes to change into. Not only was she not the color guard sponsor until the next fall, he

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<sup>26</sup> Tr. at p. 359.

<sup>27</sup> Tr. at p. 361.

<sup>28</sup> Tr. at p. 363.

confirmed, the two of them rode to school together every day, and she never brought a change of clothes. He believes Chayce simply chose to embellish his story in order to make it sound more believable. Ultimately, Mr. Ogletree testified, his wife is a very loving person who cares for and would do a lot of things for people, “but she would not molest a kid.”<sup>29</sup>

Mr. Ogletree testified that he had Chayce in two classes, Chemistry and Dual Biology. He described Chayce as having the ability to be a decent student when he really applied himself, but he had periods when he would take time off and then try to make it all up at the end. Regarding Chayce’s overall demeanor, Mr. Ogletree described him as the type that joked around quite a bit.

When asked whether he had ever discussed the allegations with Chayce, Mr. Ogletree responded that he had done so on two occasions. On one occasion Chayce came into his room early in the morning and told Mr. Ogletree that he just wanted him to know that he was not saying any of the things that were going around. Mr. Ogletree testified that he responded to Chayce by telling him that the people who were saying things needed to know they were affecting someone’s life and career and that it was a serious matter. In response, Chayce repeated that the rumors were not coming from him. Mr. Ogletree recalled that he then told Chayce to let the others know how serious the matter was. Mr. Ogletree stated that unbeknownst to him, 30 minutes later Chayce was meeting with the school administration and school resource officer “telling one of the many stories he’s told.”

Mr. Ogletree testified that the second encounter with Chayce relating to the allegations occurred following Chayce’s Dual Biology exam the last day of his senior year. According to Mr. Ogletree, Chayce entered his classroom three-to-five minutes after the class had ended and said he wanted Mr. Ogletree to know he was sorry for everything that had happened and that he did not want there to be any hard feelings. In response, Mr. Ogletree testified, he told Chayce they were not going to talk about the subject right there. Instead, he told Chayce they were going down to the office so Chayce could repeat everything he had just said. They then proceeded to the principal’s office, where

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<sup>29</sup> Tr. at p. 356.

Mr. Ogletree stated that he repeated what Chayce had just told him and then Chayce likewise repeated it. The principal then had a few words of caution for Chayce.<sup>30</sup>

#### **4. Summary of Analysis Regarding Chayce's Allegations**

As detailed in the General Analysis at Section III of this PFD, the ALJ concludes the events and conduct alleged by Chayce did not occur. His testimony was inconsistent and at times confusing. As for his allegation that Ms. Ogletree changed from her color guard uniform during the spring of 2002, it could not have happened. Ultimately, Chayce's suspect credibility, combined with the more credible and consistent testimony of the Ogletrees and other witnesses whose testimony is discussed later in this PFD, combine to lead to the conclusion that his allegations were fabricated.

#### **E. Allegations Regarding Matthew B.**

##### **1. Matt's Background as a Student at Glen Rose High School**

Matt B. described himself as an average student who graduated from Glen Rose High School in the spring of 2004. He characterized Ms. Ogletree as no more strict or lenient than any other teacher he had. He stated that he was a little embarrassed to come forward with the allegations because he did not have a grudge against her and he was a little ashamed. Matt considered the differing versions of events he had related during various interviews not as the product of changing facts but, instead, as the product of his reticence to reveal everything that had happened. He explained that upon making his first statement he was extremely embarrassed and a little ashamed of what would happen if he told "the whole truth." Ultimately, he testified, he told the whole truth to a CPS investigator during his third interview because, in his words, the situation had come to a full head in the school and around town and he wanted to get the truth out.<sup>31</sup>

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<sup>30</sup> Tr. at p. 367.

<sup>31</sup> Tr. at p. 57.

Matt acknowledged that Chayce W. was a friend of his in high school, but he denied any plot with Chayce to get together and make up a story about Ms. Ogletree. Matt explained that he and Chayce had not been friends prior to high school but became friends as a result of their being together in Ms. Ogletree's French classes.

## **2. Visit to Ms. Ogletree House in the Summer 2002**

### **a. Testimony of Matt B.**

Matt testified to how in the summer of 2002, before his junior year, Ms. Ogletree called to ask if he would be willing to come over to help move some furniture. He told her he could he could, but upon arriving at the Ogletree home he discovered Ms. Ogletree was the only person there. He described Ms. Ogletree's attire that day as a "spaghetti-string shirt and short, black bicycle shorts." When he entered the house Ms. Ogletree began playing the movie "Space Balls." According to Matt, about an hour into the movie she got up, went into the kitchen, wrote on a piece of paper, and ripped it in half. She then walked over to where he was sitting and told him to pick a hand. He did so, and in her hand was a piece of paper that said "Truth."<sup>32</sup>

At that point, Ms. Ogletree asked him a question relating to how "Truth or Dare" worked, according to Matt, and then asked what he would think of a teacher kissing a student. Matt said he did not answer, at which time she sat down on the couch, away from him, while he was still watching the movie. He testified that Ms. Ogletree then slid over next to him, put her arm around his shoulder, and leaned in and kissed him for what he estimated to be five seconds. In response, Matt recalled, he immediately leaned away, stood up, did not say anything, and left.

Matt stated that on his ten-minute drive home he felt very awkward and began to worry about what might happen when school started in the fall. He described his feeling an awkward uneasiness

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<sup>32</sup> Tr. at p. 62.

while alone with Ms. Ogletree. Because he had not yet dated anyone or had any sexual involvement with another female, Matt testified, he was “a little new to the feminine ways” and, consequently, felt Ms. Ogletree had power over him.<sup>33</sup>

**b. Testimony of Joelle Ogletree**

Ms. Ogletree confirmed Matt’s testimony that he had been to her house only twice, but she stringently denied she was alone with Matt at the house during either visit. Her testimony about Matt’s visit to her house in the summer of 2002 was consistent with that of her husband, Doug, and her cousin, Danny Daniels. She testified that Matt’s first visit to her house was for the purpose of helping her husband move a piano. She described how her husband had gone to Oklahoma to get a piano from his brother. He had told her to call a couple of students for help in moving the piano upon his return. They agreed that afterward the Ogletrees would treat everyone to dinner. Ms. Ogletree said she called several people but got two answering machines and a busy signal. She made contact with Matt, who said he would be able to come over. She then called her cousin, Danny, who was next door at their grandfather’s house.

Matt arrived, Ms. Ogletree recalled, and while her husband, cousin, and Matt were unloading the piano she was standing in the garage with her daughter on her hip, watching them. After the piano was moved to their house, the group got in the Ogletrees’ car and, went to eat in Granbury. While at Montana restaurant, she testified, the group sat in a booth, with the Ogletrees’ daughter in a high chair. After eating, they returned home and Matt left. Danny left a short time later. Ms. Ogletree stated that she was never alone with Matt that day, and she denied ever kissing or “coming onto” him that day or at any other time.<sup>34</sup>

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<sup>33</sup> Tr. at p. 64.

<sup>34</sup> Tr. at pp. 442-43.

Additional proof of Matt's presence while the piano was being moved, according to Ms. Ogletree, was a statement he later made in class. Ms. Ogletree described how, during the first or second day of class the next fall her students were discussing what they had done during the summer. Matt complained in a joking way how he had helped move a piano. In recalling the statement, Ms. Ogletree expressed frustration that had she known about the allegations against her at the time Matt made the statement, there was an entire classroom that could have corroborated his statement about moving the piano, thus directly countering his fabricated story of being alone with her.

The reason Matt could not have been referring to another occasion when he was alone with her while her husband was in Oklahoma, Ms. Ogletree testified, was because except for the campover there was no other occasion when her husband was gone. She emphasized that even Matt confirmed that he had been to the house only twice; once when called to move furniture and again for a camp-out.<sup>35</sup>

**c. Testimony of Doug Ogletree**

In regard to Matt's testimony that he was alone with Ms. Ogletree at their home in the summer of 2002 and was again at the home the following fall, Mr. Ogletree confirmed that he was present on both occasions. He explained that the first occasion came about as a result of his trip to Oklahoma to get a piano from his brother that his niece had outgrown. Before he left for Tulsa to get it, he discussed with Ms. Ogletree the need to call some students to see if they would be able to come over and help move the piano into the house upon his return. He then went to Tulsa, picked up the piano, and came back. He, too, stated that after he returned Matt came over, as did Danny Daniels. The three of them removed the piano from the truck, placed it on rollers, and moved it into the house.

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<sup>35</sup> Tr. at p. 516.

Mr. Ogletree testified that he was with Ms. Ogletree when Matt arrived. He explained that Matt had said he could help but would not be able to come over until after work, which was some time between 5:00 and 5:30. He recalled that Danny arrived around the same time as Matt.

Consistent with his wife's testimony, Mr. Ogletree testified that in appreciation for Matt and Danny's assistance in moving the piano, everyone got into the Ogletrees' car and went to Montana Restaurant in Granbury to have dinner. After dinner, they visited for a while at the table and then returned to the house, when Matt and Danny left.<sup>36</sup>

Mr. Ogletree stated that he noticed nothing out of the ordinary between his wife and Matt on that occasion. Based on what really happened the day of the piano move, Mr. Ogletree testified, Matt's claim of being alone with Ms. Ogletree was completely false. He commented that regardless of what Matt said, he knew he had assisted in moving the piano.

**d. Testimony of Danny Daniels<sup>37</sup>**

Danny Daniels, Ms. Ogletree's cousin, testified that in the summer of 2002 he was at his grandfather's house next door to the Ogletrees, helping his grandfather pack for a trip when he received a telephone call from Ms. Ogletree. She asked if he was available to come to her house and move a piano. Danny stated that he told her he would be over right away, at which time he rode over on a motorcycle. When he arrived at the Ogletree house he saw a big piano on the back of Doug Ogletree's pickup. According to Danny, another person who identified himself as Matt also was there, though he did not recall whether Matt was already there when he arrived or whether Matt arrived shortly afterward. Danny confirmed that he, Matt and Doug unloaded the piano and moved it through the Ogletrees' garage and into the house. Danny recalled that the incident had occurred in late July because he and his grandfather were preparing to travel to Oshkosh, Wisconsin, for an air

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<sup>36</sup> Tr. at p. 348.

<sup>37</sup> Tr. at p. 333.

show that starts in late July. Danny commented that his grandfather had always attended the air show.<sup>38</sup>

Danny described Matt as having thin, red hair, being about his age, and driving a GMC Jimmy or a Chevy Blazer with an older model, smaller body style.

As a reward for moving the piano, Danny recalled, Ms. Ogletree stated that she wanted to take all of them out to eat. The group, including Matt, then got into Ms. Ogletree's car and went to Granbury. Danny could not remember the name of the restaurant they visited, but he described it as having burgers and chicken fried steaks. He testified that after eating the group returned to the Ogletree house, at which time Matt went home. Danny said he stayed for a short time and visited before returning to his grandfather's house as it was starting to get dark. He then picked up where he had left off with his packing.<sup>39</sup>

Danny did not recall another occasion when he had helped the Ogletrees move a piano. He also could not recall anything unusual between Matt and Ms. Ogletree; he described Matt as acting "like a normal kid."

On cross examination, Danny confirmed that he and Matt were aware of each other's presence. He described how the two of them sat in the back seat of the Ogletree car on the way to the restaurant, with the Ogletrees' daughter, Laura, seated between them in her car seat. He had not detected any animosity between Ms. Ogletree and Matt; he stated that Matt "seemed like a friendly guy, willing to help." Danny also confirmed that he had no reason to suspect Matt was out to get Ms. Ogletree.<sup>40</sup>

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<sup>38</sup> Tr. at p. 335.

<sup>39</sup> Tr. at p. 337.

<sup>40</sup> Tr. at p. 340.

**e. Testimony of Sam F.**

Sam F., a classmate of Chayce and Matt and the person who had retracted his allegations of having had sex with Ms. Ogletree, confirmed his recollection that while students in Ms. Ogletree's class were discussing what they had done during the summer of 2002, Matt stated that he had helped Ms. Ogletree move some furniture.<sup>41</sup>

**3. Camp-Out at Ogletree house<sup>42</sup>**

**a. Matt's Testimony**

Matt described a second incident of sexual conduct he said occurred just after school started in the fall of 2002, his junior year. He stated that while he was attending a camp-out at the Ogletree home with four other boys from his French class, he started suffering from a migraine headache. He needed to go to his house for a dose of medicine to combat the migraine but required someone to drive him. He said he asked for a ride in front of everyone, and Ms. Ogletree volunteered. She drove him the ten-to-fifteen minutes to his house, and upon arriving he went in and took his medicine.

On the return trip to the Ogletree house, according to Matt, Ms. Ogletree turned down the county road she lived on but drove past her driveway. She proceeded to the intersection of the next county road, where she pulled over, put the car in "Park," and turned the headlights off but kept the car running. She then lifted the two armrests between them, slid over next to him, put her arm around him, and began kissing him. Matt said she then started to rub his penis and undid his belt and zipper, putting her hands in his pants and masturbating him. He estimated that the contact continued for no more than ten minutes.

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<sup>41</sup> Ex. R-14 at p. 19.

<sup>42</sup> Tr. at p. 65.

Matt testified that in order to stop the sexual contact, he grabbed Ms. Ogletree's hand and pulled it out of his pants. Nothing was said by either person, and they returned to the Ogletree house.<sup>43</sup>

On cross examination, Matt agreed that he had visited the Ogletree house only two times, but when asked whether he had helped move a piano into the Ogletree house on one of the occasions, during the summer of 2002, he stated that he did not recall. He also denied having gone to the Granbury restaurant with the Ogletrees.<sup>44</sup>

Matt testified that while on the way to his house to get his migraine medication the night of the camp-out nothing happened; that Ms. Ogletree did nothing to him. On cross-examination, however, he acknowledged having testified during his May 31, 2006 deposition that Ms. Ogletree was very affectionate and very touchy on the trip to his house, wanting to hold his hand or have her hand on his shoulder or around his neck.<sup>45</sup>

Matt conceded that although he had told people at some point about Ms. Ogletree masturbating him on the side of the road, he had not said anything about it in a statement he had made to CPS on October 3, 2002, soon after the alleged incident. He also recalled having testified at Ms. Ogletree's criminal trial that he could not remember whether Ms. Ogletree's baby was in the car when she masturbated him. He confirmed his testimony from the criminal trial, however, that he could not say where the baby was at the time; he said he knew only that she was not between Ms. Ogletree and him in the front seat. He conceded, though, that he would have considered the Ogletree

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<sup>43</sup> Tr. at p. 68.

<sup>44</sup> Tr. at p. 101.

<sup>45</sup> Tr. at p. 107.

child's presence a significant detail; he simply could not remember if she was present during the sexual encounter.<sup>46</sup>

Matt confirmed his testimony presented on direct examination that not a word was said between Ms. Ogletree and him from the time she passed by her house when returning from his house the night of the camp-out and while she masturbated him. He also confirmed his prior testimony at his May 31, 2006 deposition, however, that Ms. Ogletree spoke in his ear "about the student-teacher relationship" while masturbating him for an estimated three-to-five minutes. He also confirmed his earlier statement on direct examination that no kissing had taken place during the incident, but he conceded that he may have previously stated in a January 2003 interview that there was kissing.<sup>47</sup>

**b. Ms. Ogletree's Testimony**

Ms. Ogletree described the circumstances leading up to the camp-out at her house in the fall of 2002. She stated that students expressed interest in having camp-out at her home, so she and her husband Doug told them they could. All of the guests were boys; five of them, she recalled. Although girls in hers and Doug's classes also wanted to attend, Ms. Ogletree testified, she and Doug did not want that many people at her house and did not want boys and girls there at the same time. The girls were told, though, that a camp-out would be held for them later, but she was terminated before that could happen. She explained that she and her husband decided to have the boys over first for two reasons: The date chosen for the event, September 20, was an open date for the football team. Also, the student council was holding a "lock-in" that night, and many of the girls were in student council.

There were other events at their house, too, according to Ms. Ogletree. On different occasions students had come over to cook French meals, and when Ms. Ogletree became color guard sponsor

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<sup>46</sup> Tr. at p. 112.

<sup>47</sup> Tr. at p. 115.

the color guard members were asked over. Ms. Ogletree stated that when she first hosted the French meals she made the school's administration aware of it and they said it was a good idea. She pointed out that even children of teachers, teachers' aides, and an assistant principal attended, and no one complained. A school board member even knew about the gatherings, she testified. Overall, people thought what she and her husband were doing was nice.<sup>48</sup>

Ms. Ogletree testified that upon hearing Matt complaining about a migraine and asking for a ride to his house, she and her husband discussed how to handle it. They concluded that they did not want another student to take Matt to his house because they would then have two students who were supposed to be under their care out running around town. Consequently, she stated, she took Matt and her husband stayed home with the others. She added that she also took her daughter, Laura, so that Laura could fall asleep during the drive.

Ms. Ogletree denied sexual contact with Matt during the ride to or from his house. When they got to Matt's house, Matt went inside and she stayed in the car with her daughter. When Matt came back to the car, they returned to her house. She stressed that despite Matt's differing accounts about her stopping and masturbating him, they never stopped and nothing improper happened. In response to Matt's allegation that upon stopping on the side of the road she turned off the car's headlights but kept the motor running, she testified explained that her car would not do that. She explained that once the engine is started the headlights come on, and they will not go off for some time after the engine has been turned off.<sup>49</sup>

Ms. Ogletree also pointed out what she considered to be other inconsistencies in Matt's testimony, such as his original claim that they had kissed while on the side of the road, only later to testify that they did not kiss. Also, she noted, Matt's estimates of the length of time she spent masturbating him varied from two-to-three minutes up to five-to-ten minutes. Ms. Ogletree

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<sup>48</sup> Tr. at p. 448.

<sup>49</sup> Tr. at p. 450.

speculated that Matt must have reduced his estimate of the amount of time she allegedly masturbated him because he wanted to make the story more believable. Matt may have realized his prior estimated that she had masturbated him for up to ten minutes without causing him to ejaculate might not be viewed as plausible.<sup>50</sup> Regardless, she emphasized, it never happened, nor did she and Matt ever kiss.

**c. Doug Ogletree's Testimony**

Mr. Ogletree was consistent with Ms. Ogletree in describing the circumstances leading up to the camp-out. He added that he spoken with his building principal about the plan to have the gathering, which they had sponsored before.

Mr. Ogletree explained that they had hosted similar gatherings before and no one had ever complained. He also confirmed that they had decided it would be best not to host boys and girls at the same time. They agreed to have a separate gathering for the girls at a later date.<sup>51</sup>

Mr. Ogletree also confirmed the situation leading up to Ms. Ogletree and Matt's trip to his house: Matt's complaining of a migraine headache and the need for either him or Ms. Ogletree to remain at home with the other guests. Matt, Ms. Ogletree, and the Ogletrees' oldest daughter, who was around 18 months old at the time, then left for Matt's house, according to Mr. Ogletree. He added that he did not feel they were gone for an inordinate amount of time.

Mr. Ogletree characterized as impossible Matt's testimony about Ms. Ogletree's turning off the car's headlights but leaving the engine running. He, too, explained that when the car's engine is started the lights come on and stay on for a period of time after the ignition is turned off, and he and his wife did not know at the time whether it could be altered.<sup>52</sup>

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<sup>50</sup> Tr. at p. 518.

<sup>51</sup> Tr. at p. 350.

<sup>52</sup> Tr. at p. 352.

Because he did not believe it was within his wife's character to engage in the conduct alleged by Matt, and based on Matt's representation about the headlights being turned off, Mr. Ogletree did not believe the allegations. Neither did he believe his wife ever had an inappropriate relationship with Matt or any other student.

#### **4. Coded Notes<sup>53</sup>**

##### **a. Matt's Testimony**

Matt alleged that at one point Ms. Ogletree began giving him coded notes with hidden, sexual meanings. He testified that Ms. Ogletree had explained that each letter of the note represented the first letter of a corresponding word. One of the notes contained the letters "IWTGYHSB." According to Matt, Ms. Ogletree told him the letters represented the statement "I want to give you head so bad." Another note, containing the letters "SIWYWJFM," represented the statement "Sometimes I wish you would just fuck me," according to Matt. A third, smaller note contained the letters "IASS." Matt testified that Ms. Ogletree told him it meant "I am so sorry."

Matt stated that at first he decided to throw the notes away in his bedroom at home, but when the school board found out about the allegations and he was asked about the notes, he retrieved them before they were thrown out with the garbage.

##### **b. Ms. Ogletree's Testimony**

Ms. Ogletree acknowledged writing the coded notes but categorically denied that she had intended any sexual meaning. She explained that at the first of class one day, as her students were entering the classroom, Matt and Sam F. were talking about a letter someone in another class had written in code; she recalled they were also talking about a funny incident that had occurred at a Sonic

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<sup>53</sup> Tr. at p. 69-73.

when they were returning from a football game. Ms. Ogletree said she interjected a comment that students had written coded notes when she was in high school, too. She said that as an example of what she was saying she took a notepad and wrote the first letter of each word in a message and handed it to Matt. The letters were S-I-W-Y-W-J-F-M, and the intended meaning of the note, according to Ms. Ogletree, was “Sometimes I wish you were just funnier, Matt.”

Ms. Ogletree testified that Matt took the note as the other students finished coming into the class. She then took attendance. Later in the day, as she was going to lunch, Matt came walking by her with the note out, looking at it. She said she stopped and asked him whether he had figured it out, and he responded that he had not. She then told him the first word was “sometimes” and the last word was “Matt.” She said it was the only discussion she and Matt ever had about the note.

Ms. Ogletree described how, as the students were entering her class the next day, some of them were making fun of her for using pet words and phrases. Some of the students were at the chalkboard listing the words and phrases, which included “Crudiduh,” which she would say if she dropped something; “Anyway”; “It’s not even funny”; and “Oh please.” She explained that as she was looking for a specific pencil she used when taking roll she realized it had been in her hand the whole time. Matt B. noticed the blunder and said, “I wish to God our teacher was not such a scatterbrain.” In response, Ms. Ogletree said, she wrote “IWTGYHSB” for “I wish to God you had some brains” and included the statement “It’s not even funny,” which she took from the chalkboard.

Ms. Ogletree stated that she had handed the note to Matt in front of everyone. She emphasized that she had not intended anything hateful by the letter; she and Matt were simply “giving each other a hard time.” As with the first note, she explained, she had not intended anything sexual by the second one. She added that after being around a class for a couple of years one tends to feel more at ease with them.

As for the words Matt chose for the reference to oral sex, Ms. Ogletree stated that they were not words she would have used. She explained that had she written a note referring to oral sex, she

probably would have used the term “blow job.” She emphasized that the words Matt assigned to the note were his words, as demonstrated repeatedly by his choice of words during his interview with CPS.

As for the third note mentioned by Matt, Ms. Ogletree explained that toward the end of that same class period, as the students were putting away their work, she walked over to her computer to check her e-mail. She stated that she must have had a funny look on her face because one of the students asked if anything was wrong. She replied that nothing was wrong, at which time Matt said, “Oh, nothing big; I just ruined her day.” Ms. Ogletree said she responded, “Matt, you don’t have the power to ruin my day.” The whole class then responded with an “Ooooooh.” Matt then just sat down and did not do anything, she stated, at which time she jotted down the letters “IASS” for “I am so sorry.” She said she handed him the note and said she was sorry if she had upset him. Ms. Ogletree speculated that Matt must not have been able to come up with something sexual out of the “IASS” string because it did not contain as many letters. She emphasized that each of the three notes was written in the open; she never tried to hide anything.

Describing the notes as probably the most foolish, naive things she had ever done, Ms. Ogletree testified that she never intended for them to have sexual connotations. In no way did it ever cross her mind, though, that Matt would take the letters and make something sexual out of them. In her words, the notes were intended to be “just a cute little fun thing.”

## **5. Poem About Ms. Ogletree**

On cross examination, Matt acknowledged having written a poem his senior year about the alleged incidents involving Ms. Ogletree, but he denied having made copies of it. Nonetheless, he also acknowledged having testified in a deposition that he had made copies of the poem and given them to his friends. When asked whether his deposition statement was his testimony, Matt answered, “That’s my testimony, yeah.”

## 6. Miscellaneous Testimony of Matt B.

Matt testified that from his freshman to his sophomore year, Ms. Ogletree's teaching style changed. She became very relaxed, and the class did not do as much French. The third year Ms. Ogletree became even more lenient, Matt stated.<sup>54</sup>

Much like Chayce, Matt confirmed his claims that Ms. Ogletree had flirted with him in class by wearing short skirts and low-cut blouses, and by rubbing up against him.

Matt testified that the day after Ms. Ogletree was fired as a teacher, he and Chayce went to talk to Ms. Ogletree's husband. He explained that because they were still friends with Mr. Ogletree, they asked Mr. Ogletree how the situation was "going to play out."<sup>55</sup> Mr. Ogletree replied that if anything else came out "he was getting the fuck out of there."<sup>56</sup>

Matt stated that while he and Chayce were on their way back to school from a conference at the school district's administration building with the district's attorneys, he and Chayce decided they should come forward with the truth. He explained that he came to the hearing to testify because the incidents with Ms. Ogletree affected two years of his high school, he was asked by the school to tell the truth, and he had been asked twice by the State to tell the truth. Consequently, he stated, he wanted to "tell the truth and get it over with."<sup>57</sup>

Matt confirmed that he liked Ms. Ogletree as a person and that he never held any animosity toward her, either before or after the allegations came out.

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<sup>54</sup> Tr. at p. 59.

<sup>55</sup> Matt confirmed that he never had Mr. Ogletree as a teacher.

<sup>56</sup> Tr. at p. 73.

<sup>57</sup> Tr. at p. 78.

On cross-examination, Matt confirmed that other than the allegation that Ms. Ogletree had kissed him while the two were alone at her house on one occasion and that she had masturbated him on the other occasion after she took him to get his migraine medicine, there were no other incidents of misconduct by her.

Also on cross examination, Matt agreed with the premises that a person's memory generally fades over time, that statements made about an incident closer to the time of its occurrence tend to be more accurate, and that his statements made closer to the alleged incidents involving Ms. Ogletree would provide a better understanding of what happened. He then conceded that in his first statement about the allegations, which he made to his theatre coach, Ms. Warren, he did not mention anything about being masturbated by Ms. Ogletree. Likewise, he did not mention it in the second statement he provided, to school resource officer Shane Tipton.<sup>58</sup>

Matt agreed that, despite his close relationship with Ms. Warren, he was not completely honest with her when he did not come forward with the allegation regarding the masturbation incident inside Ms. Ogletree's car. Likewise, Matt affirmed that Officer Tipton had reduced to writing Matt's statement to him and that the written statement was an accurate reflection of what he had told the officer, as evidenced by his signature at the bottom.<sup>59</sup> He again confirmed, however, that the statement to Officer Tipton did not mention the masturbation allegation. He also acknowledged that on different occasions he had told differing versions about what had happened.

Matt also agreed on cross examination that he had received positive feedback from several classmates about his having sexual relations with a teacher, but he denied having bragged about it. He did concede, though, that an article in the school newspaper quoted him as advising any incoming students for the next year to get an attorney and to watch out for the teachers.

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<sup>58</sup> Tr. at p. 87.

<sup>59</sup> Tr. at p. 89.

## **7. Miscellaneous Testimony of Ms. Ogletree**

Ms. Ogletree observed that Matt did not bring up his allegation about the “hand job” that purportedly had occurred during the camp-out until January 2003, after she had filed lawsuit against the school district. In conjunction with this recollection, Ms. Ogletree added that Matt’s mother was employed by the president of the school board.

## **8. Miscellaneous Testimony of Doug Ogletree**

Mr. Ogletree denied ever having met with Matt and Chayce together despite Matt’s testimony to the contrary. He emphasized that the only person who ever visited his room to talk about the allegations was Chayce. He also characterized as “another of Matt’s lies” his testimony that Mr. Ogletree had stated “I’m getting the fuck out of here” if anything more came out. Ms. Ogletree stated that, as a professional, he did not even use that kind of language at school, particularly not in front of students.

Mr. Ogletree also confirmed that he had never tried to influence or change the assertions made by Chayce, Matt, or Sam; he never retaliated or treat anyone differently because of their involvement in the allegations against his wife; and he never suggested to Chayce or any other student that he suspected Ms. Ogletree might be guilty of the allegations.

## **9. Summary of Analysis Regarding Matt’s Allegations**

Like Chayce’s allegations, Matt’s were at the very least implausible, while at least one major one—that he had been alone at the Ogletree house with Ms. Ogletree—was simply disproved, partially by the testimony of Matt himself. As discussed in more detail in the General Analysis at Section III of the PFD, the ALJ concludes Staff wholly failed to prove any of the allegations involving Matt.

**F. “I’ve Never” Game****1. Matt’s Testimony**

In describing the “I’ve Never” game that had been played in Ms. Ogletree’s French class, Matt explained that everyone would sit in a circle of chairs around a person who was standing, leaving one less chair than participants in the game. The person standing would then state something he or she had never done. That person, together with those seated who had done what was described, would then be required to stand up and take another chair, again leaving one person standing in the middle.<sup>60</sup> The process would then repeat itself.

Matt testified that Ms. Ogletree participated in the game with the rest of the class. When asked if Ms. Ogletree used profanity or swearing during the game, Matt answered, “Yes Ma’am. She talked just like we did in the classroom, which was cursing and sexual innuendos.” He confirmed that when they came turned sexually explicit, Ms. Ogletree did not stop the game or correct the students.<sup>61</sup>

When asked on cross-examination whether the “I’ve Never” game could have been played in other classrooms with other teachers, Matt answered, “It could have been. I don’t know.” He acknowledged, however, that he provided the following testimony about the “I’ve Never” game at Ms. Ogletree’s criminal trial:

Q: Is it the first time you played it in school?  
A: No, ma’am.  
Q: So some other teachers –  
A: It has taken place in other classes, yes.<sup>62</sup>

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<sup>60</sup> Tr. at p. 60.

<sup>61</sup> Tr. at p. 61.

<sup>62</sup> Tr. at p. 118.

Likewise, on cross-examination Matt confirmed his testimony on direct examination that while participating in the “I’ve Never” game Ms. Ogletree made sexual remarks, but he also agreed he had provided the following testimony at the criminal trial about Ms. Ogletree’s participation in the game:

- Q: She would continue to play the game?  
A: Yes.  
Q: Did she ever tell whoever was saying those things to stop?  
A: No, Ma’am.  
Q: Did she ever say things like that herself?  
A: No ma’am.<sup>63</sup>

## **2. Ms. Ogletree’s Testimony**

Ms. Ogletree denied ever having used profanity or sexual remarks while playing the “I’ve Never” game. She recalled playing it once during “down time” after her class’s six-weeks test, though she speculated there could have been one other time. The game was played it at the end of the first six weeks test. She stated that although she had seen the game played before at a student council lock-in about two years earlier, she had not recalled know how to play it. The students explained it to her, and they started playing. Ms. Ogletree testified that when it was Chayce’s turn to stand in the middle he made some remark about his penis. The class just sat and looked at him, at which time she told him to say something else. In response, she stated, Chayce said something else that was inappropriate, at which time she made him sit down. Other than Chayce’s comments, Ms. Ogletree said there were no others of a sexual nature.<sup>64</sup>

Ms. Ogletree said she was aware of Matt’s statement to CPS that someone had commented about “giving head” while playing the game. She recalled that when Matt was asked by the CPS investigator who had said it, he responded that he did not know; that he was not there when the game

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<sup>63</sup> Tr. at p. 119.

<sup>64</sup> Tr. at pp. 467-68.

was played. At her criminal trial, however, Matt had misrepresented to the jury that he was present during the game. Ms. Ogletree testified that notwithstanding Matt's varying statements she personally recalled that he was not present during the game because he had gotten sick and had to go to the nurse's office.

### **3. Testimony of Former Students**

The testimony of the ex-students Ms. Ogletree called as witnesses echoed her testimony that she had not acted inappropriately during the "I've Never" game. Beau Y. remembered one occasion when the "I've Never" game was played in Ms. Ogletree's class, and he recalled also having played the game in other classes. He testified that he never heard Ms. Ogletree make any remarks of a sexual or otherwise inappropriate nature in connection with the game. He did recall that during class Chayce would make comments that were inappropriate or offensive, and that Matt would do the same. Beau stated that Ms. Ogletree would react with some type of disciplinary action toward them, such as sending them to the hall or to the office.

Tami W. recalled playing the "I've Never" game once or possibly twice, "but no more than that." Like Beau, she said she never heard Ms. Ogletree make any sexual or otherwise inappropriate remarks during the game, although she did recall an occasion when a student, while playing the game, said "I have never had sex." Tami testified that in response to the statement Ms. Ogletree immediately told the class such questions would not be asked or the game would be stopped.

Likewise, Vanessa P. remembered playing the game once during final exams, and she did not recall Ms. Ogletree making any inappropriate comments. She also recalled some of the boys making sexually-oriented comments, requiring Ms. Ogletree to step in and tell them it was inappropriate.

### **4. Summary of Analysis Regarding the "I've Never" Game**

As reflected in the General Analysis at Section III of the PFD, Staff failed to demonstrate that

Ms. Ogletree either acted inappropriately while participating in the “I’ve Never” game or encouraged or allowed inappropriate behavior to occur during the game. In fact, the evidence reveals very different realities: that Chayce was the one making sexually oriented remarks and that Matt was not even present when the game was played in Ms. Ogletree’s class. The allegations relating to the game are without merit.

## **G. Retracted Allegations of Sam F.**

### **1. Background**

Sam F. had made allegations of sexual misconduct against Ms. Ogletree that he later retracted. Consequently, they were not a part of Staff’s allegations. Nonetheless, Ms. Ogletree offered his video-deposition into evidence for the following reasons:

- Sam’s allegations are intertwined with the investigations into the allegations made by Matt and Sam;
- Sam offers crucial testimony that reflects on Matt’s truthfulness; and
- Sam testifies about the pressures by adults that led him to reverse his initial representation that nothing had happened between him and Ms. Ogletree.

Staff did not object to the consideration of Sam’s deposition testimony but requested that his prior interviews during the investigation also be considered. The ALJ considered both the investigation relating to Sam, including his statements to investigators, and his video deposition.

### **2. Deposition of Sam F.**

Despite his prior allegation that he had engaged in sexual contact with Ms. Ogletree while alone with her at her house, Sam F. confirmed that he later retracted the claim. He testified via deposition that in early October 2002 he was approached by school officials about the rumors

involving Ms. Ogletree. In response, he gave a sworn statement on October 3, 2002, which was reduced to writing. In the statement he denied ever having “any kind of relations, kissed, touched, or anything with Ms. Ogletree.”<sup>65</sup> Upon reviewing the 3½-year-old statement, he confirmed that what he had attested to was true: he had never had inappropriate contact with Ms. Ogletree. Sam affirmed his opinion, however, that he thought Ms. Ogletree had worn clothes inappropriate for the classroom, such as low shirts and tight pants, though he never complained to anyone about it.<sup>66</sup>

Sam acknowledged that in contrast to the October 3, 2002 statement, he gave a second statement in May 2003 in which he claimed that sexual contact between him and Ms. Ogletree had in fact occurred.

Sam also confirmed he had represented to CPS in audio and video interviews in May 2003 that he and Ms. Ogletree had engaged in sexual intercourse when he visited her house on September 23, 2002 to turn in a lab book that was due in Mr. Ogletree’s science class. He likewise confirmed, however, that it was not true.

Sam acknowledged the actual events of September 23, 2003: His parents were with Chayce W.’s parents vacationing in Costa Rica, and he and his brother were staying with their grandmother. Before school the morning of September 23, she dropped him by his house before taking his brother to school at junior high. Once at his house, Sam decided to skip school. He confirmed that a lab report was due in Mr. Ogletree’s class and that Mr. Ogletree had made it very clear all along that if a student ever failed to turn in a lab report they had better “be dead or close to death.”<sup>67</sup> Because he had not completed his lab report, he decided to skip school in order to do so. Ultimately, Sam told his grandmother that he had not gone to school because he was sick, and she wrote a note for him that

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<sup>65</sup> Ex. R-14 at exhibit 1.

<sup>66</sup> Ex. R-14 at p. 8.

<sup>67</sup> Ex. R-14 at p. 9.

he used to obtain an excused absence. Sam confirmed that his school attendance record and that of Chayce reflected their absences on September 23, 2002.<sup>68</sup>

It was on that same day—September 23, 2002— that Sam visited the Ogletree house between 4:00 p.m. and 4:30 p.m. and gave the lab report to Mr. Ogletree. He recalled that he had tried to catch Mr. Ogletree at school that afternoon but did not get there in time. Thus, he had to drive out to the Ogletree house to turn it in. Sam testified that he had no idea Ms. Ogletree was not at home at the time; he only knew that Mr. Ogletree was there and that he handed the lab report to him. Consequently, Sam confirmed, not only did Ms. Ogletree not commit any of the acts he had originally alleged, he did not even see her that day.

When asked why he would have made such allegations against Ms. Ogletree if they were not true, Sam stated,

Tired of, let me think of the best way to put it, tired of being pressured into it. Tired of being called up to the office every, constantly every day, twice a day, three times a day to ask, because in Glen Rose, anytime an administrator hears a rumor, even though you've denied it for however many months that is from October 'til May, even though you've denied it that long, they still think, they're holding out hope that you might . . . .<sup>69</sup>

Sam estimated that he had been called to the office between 10 and 20 times, and each time he confirmed he had already given his statement and that what he had said in the statement was true. He also confirmed that ultimately, on May 12, 2003, he decided to give the conflicting statement in response to feeling pressured to make the allegations; because, in his words, it was what the adults wanted to hear and so that they would leave him alone.<sup>70</sup>

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<sup>68</sup> Ex. R-14 at exhibit 3A.

<sup>69</sup> Ex. R-14 at p. 11.

<sup>70</sup> Ex. R-14 at pp. 11-12.

When asked whether he regretted having made the false statement in May, Sam answered, “One hundred percent, one hundred and ten percent.” He stated that the summer of 2003 he told his girlfriend that the allegations were not true. She was the first person he told. Later that summer he told his mother and Chayce the allegations were false, that his first statement that nothing had happened between him and Ms. Ogletree was the truth.

When questioned by Staff during his deposition about his motivations in making up the allegations, Sam replied, “I wish I could tell you. What was I thinking, thinking that this was one step closer to getting it over with, but in reality just one step deeper, you know, digging, . . . there’s no need for cliches, but I honestly can’t tell you what I was thinking.” Sam testified that he liked Ms. Ogletree both as a teacher and as an individual. He added that he had not intended to hurt her although that is what he obviously had done.<sup>71</sup>

After being reminded by Staff that he had made varying statements relating to Ms. Ogletree and that her teaching credentials were on the line, Sam was asked whether he was presently telling the truth. He answered that he was, that nothing whatsoever had happened between him and Ms. Ogletree. He confirmed that his false allegations were the product of his being pressured to say something had happened between them.

Sam was aware that the district attorney had dropped criminal charges against Ms. Ogletree as they related to his allegations. He confirmed that had told the district attorney’s office before the trial in 2004 that the allegations were not true. He explained the delay in coming forward as the result of the district attorney’s office not contacting him for “a whole year.” “As long as it would stay away,” he testified, that was okay with him. He also confirmed that it was when he realized the district attorney was going forward with the criminal charges that he decided to go and talk to him.<sup>72</sup>

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<sup>71</sup> Ex. R-14 at p. 20.

<sup>72</sup> Ex. R-14 at p. 13.

Sam stated that looking back on the one-year delay in coming forward with the truth, “I feel awful about it. I feel awful that I changed my statement in the first place.” He apologized “for my immaturity back then; it’s one of the many things I regret, I guess.”<sup>73</sup>

Sam agreed that he had described Ms. Ogletree as a good teacher, and he denied ever having seen her engage in any sexual acts or inappropriate touching with any students, including Matt and Chayce.

When asked whether Matt had ever lied to him, Sam responded:

Matt and I weren’t really very close, and I will say this. While he’s never lied to me, I have heard that he had lied to other people. But at the same time, I can’t give you any examples.

With regard to Matt’s propensity to lie, Sam added, “Everyone just kind of knew that was in his character, I think.”<sup>74</sup>

### **3. Testimony of Doug Ogletree**

Doug Ogletree was asked about Sam F.’s retracted claim that he had engaged in sex with Ms. Ogletree when he stopped by the Ogletree house to drop off a book. Mr. Ogletree testified that, consistent with Sam’s retraction, he was the one to whom Sam had handed the book and that it had occurred on September 23, 2002.

On cross examination, Mr. Ogletree re-confirmed there was no way Sam could have had sex with Ms. Ogletree when he said he did. Mr. Ogletree pointed out that on the day Sam said it had

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<sup>73</sup> Ex. R-14 at p. 17.

<sup>74</sup> Ex. R-14 at p. 14.

happened—and Sam had agreed that the day he said it had happened was September 23, 2002—Ms. Ogletree was at an appointment with their daughter at a respiratory therapist’s office in Forth Worth.<sup>75</sup>

#### **4. Testimony of Joelle Ogletree**

Ms. Ogletree confirmed what her husband has said: that on September 23, 2002 she happened to be an hour away in Fort Worth with her mother and daughter at a doctor’s office. She stated that in light of the allegation she was grateful that by happenstance she was out of town at the time. She also confirmed that Sam had apologized for the wrong he had done, the immaturity he had exhibited, and harm he had caused.<sup>76</sup>

### **H. Observations Regarding Ms. Ogletree’s Background, Teaching Abilities, Manner of Dress, and General Behavior**

#### **1. Joelle Ogletree**

##### **a. Educational Background**

Joelle Ogletree testified that after graduating fifth in her class at Glen Rose High School in 1996, she enrolled at Tarleton State University in Stephenville on a presidential honor scholarship. She received her degree in English along with a teaching certificate in December 1999. She testified that she had a 4.0 grade point average at Tarleton and was chosen as the outstanding graduate for the English Department. In addition, she stated, she was selected among the outstanding graduates in the English Department to speak at graduation. Later, in the spring of 2005, she completed her masters degree in English, also at Tarleton.

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<sup>75</sup> Tr. at pp. 394-95.

<sup>76</sup> Tr. at p. 438.

**b. Replacing Agic and teaching part-time**

After completing her student teaching at Glen Rose High School in the fall of 1999, Ms. Ogletree was hired as a teacher for the fall semester of 2000.<sup>77</sup> She confirmed the testimony of Peggy Agic that Ms. Agic had retired but agreed to come back until Ms. Ogletree could take over her position teaching French in the fall of 2000. Ms. Ogletree also began teaching English at that time. She taught both subjects for two years, until she took over sponsorship of the high school's color guard in the fall of 2002, when she began working part-time and teaching only French.

Ms. Ogletree explained that in January 2002 she submitted a letter of resignation based on her decision to quit teaching and stay home with her daughter. The school administration asked her to come back, though, and she agreed to come back if she could work part-time. The school district agreed, and in the fall of 2002 she was scheduled to teach two French classes and sponsor the color guard. Ms. Ogletree testified that she also requested that her conference period be at the end of her day.

**c. Ms. Ogletree's Appraisal as a Teacher<sup>78</sup>**

When asked to comment on her appraisal from her second full year as a teacher, Ms. Ogletree characterized it as very good. She noted that it was based on observations by the assistant principal upon visiting her class while the students were putting on a play. Based on the assistant principal's observations, he noted, "It is apparent that a good discipline plan is in place." According to Ms. Ogletree, the assistant principal could tell she had control of her classroom. She noted that the evaluation also characterized her as an outstanding teacher that the high school was lucky to have.

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<sup>77</sup> Tr. at p. 409.

<sup>78</sup> Tr. at pp. 412-413.

Ms. Ogletree confirmed that she had never received any reprimands, she was never placed on a growth plan, and no complaints or grievances had ever been filed against her. The allegations by Matt and Chayce constituted the only accusations ever made against her.

**d. How Ms. Ogletree's Employment with Glen Rose High School Ended**

Ms. Ogletree described how, the evening of October 1, 2002, she received telephone call from the high school principal, who told her there were rumors the school was going to look into and that he was placing her on probation. She said she did not again hear from anyone until the morning of October 3, when the principal called and said they were terminating her employment. Ms. Ogletree stated that she has not worked as a teacher in a permanent position since that time.

**e. Investigation Into Allegations; Criminal Proceedings**

Ms. Ogletree affirmed that she never had a sexual or otherwise inappropriate relationship with a student and expressed her belief that such a relationship would not be appropriate.<sup>79</sup> If such a relationship were to occur, she testified, the teacher definitely should neither be allowed back in the classroom or be allowed to teach again.

While confirming her understanding of the allegations against her, Ms. Ogletree testified that she first became aware something was wrong when the assistant principal called her. She recalled, however, that at the high school football game the Friday before that, Sam came up to her and said there were some rumors going around about him, her, and Chayce. Ms. Ogletree stated that she naively did not think anything of it because Sam was the one telling her about it and the two of them knew there could have been nothing to the rumors. The next Tuesday, however, she received the telephone call from the assistant principal. Ms. Ogletree testified that the school administration never

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<sup>79</sup> Tr. at p. 416.

informed her of the rumors against her, never gave her a hearing, and never allowed her to respond to the allegations.

The only allegation Child Protective Services ever spoke to her about, according to Ms. Ogletree, was the alleged incident about grabbing Chayce outside of his pants. That conversation occurred in early November 2002, she recalled. She was never interviewed again by CPS.<sup>80</sup>

Ms. Ogletree testified that following her termination, she filed a lawsuit against Glen Rose Independent School District in January 2003 for wrongful termination. She stated that the lawsuit is currently on appeal before the Waco Court of Appeals.

Ms. Ogletree also testified about criminal charges filed against her relating to the alleged sexual misconduct with Chayce, Matt, and Sam. She stated that she was indicted in March 2003 and then again the following May. She pleaded “not guilty” to the charges, and she confirmed that the charges involving Sam were dismissed before trial following Sam’s retraction to the district attorney who was prosecuting her.<sup>81</sup>

Ms. Ogletree said she was offered a plea bargain that would have required her to plead guilty to two “basically nothing” misdemeanors, in her words; relinquish her teaching license; serve no jail time; not have recorded anywhere the fact that minors were involved; and not have to register as a sex offender. Describing it as the hardest thing she ever had to do, Ms. Ogletree stated that she rejected the offer despite having young children she would lose if convicted. She noted that if found guilty she faced up to 120 years in prison.

The criminal trial on the charges involving Matt and Chayce was held in August 2004, Ms. Ogletree recalled. Ultimately, the judge granted a mistrial while Matt was testifying, and all of the

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<sup>80</sup> Tr. at p. 419.

<sup>81</sup> Tr. at p. 422.

charges were dismissed.<sup>82</sup>

Ms. Ogletree described how, about a week after she rejected the offer of a plea bargain in August 2004 and nearly two years after the allegations were made public, she received a letter from the Texas Education Agency. The letter acknowledged in Ms. Ogletree's words, that TEA had received information concerning her fitness to be a teacher but that no action would be taken against her license before she had a chance to defend herself. She stated that she did not hear from TEA again until January 2005, when TEA Investigator John Lopez informed her by letter that she was under investigation.<sup>83</sup>

## **2. Doug Ogletree**

Mr. Ogletree considered his wife's attire as conservative for a younger teacher; appropriate for the classroom. He said he never observed her wearing anything provocative, never heard any concerns expressed that she favored the boys over the girls, and never overheard her using profanity or making sexual comments or innuendos.<sup>84</sup>

Mr. Ogletree described his wife as a very intelligent and gifted person who relates to students well. In his opinion, her loss as an educator would be a travesty to the state of Texas because it would lose a very valuable person.

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<sup>82</sup> Tr. at pp. 424-25.

<sup>83</sup> Tr. at p. 427.

<sup>84</sup> Tr. at p. 369.

### 3. Testimony of Former Students

#### a. Beau Y.<sup>85</sup>

Beau Y. a classmate of Matt and Chayce and a fellow student in Ms. Ogletree's French class, described Ms. Ogletree as one of the most motivating and helpful teachers at Glen Rose High School, "one who really cared about . . . the kids' educations." He thought of her as always staying on target and staying on schedule. When asked whether Ms. Ogletree ever dressed in a manner he considered inappropriate, such as wearing short skirts or tight clothes, Beau responded that not only did she not dress inappropriately, she was ridiculed for "dressing like an old woman, long dresses covering her arms and stuff." He recounted one occasion when Matt was making fun of the way Ms. Ogletree was dressed, comparing her to Mary Poppins. Beau likewise denied ever hearing her make sexual comments or otherwise use profanity or vulgar words. Beau said he considered Ms. Ogletree a very good teacher who never acted inappropriately with other students.

#### b. Tami W.<sup>86</sup>

Tami W. was also classmate of Matt, Chayce, and Sam in French I, II, and III. Tami described Ms. Ogletree as a teacher who was a friend to everyone; one who was willing to stay at school late or get there early for tutoring; one who would enjoy doing one-on-one work with students. She described Ms. Ogletree as "one of the greatest teachers" she had; she added that she learned quite a bit from Ms. Ogletree. In response to whether she had ever witnessed Ms. Ogletree wearing inappropriate clothing, Tami W. answered, "Absolutely not." She likewise testified that she had never heard Ms. Ogletree use profanity or vulgar words, make any sexual comments or innuendos, inappropriately touch any students, or play favorites with the boys at the expense of the girls.

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<sup>85</sup> Tr. at p. 154.

<sup>86</sup> Tr. at p. 178.

**c. Tara P.<sup>87</sup>**

Like Tami and Beau, Tara. P. testified that she never observed any inappropriate behavior by Ms. Ogletree.

**d. Carrie V.**

A fourth classmate of Chayce and Matt and a student of Ms. Ogletree, Carrie V. also considered her to be a very good teacher. She described Ms. Ogletree's level of discipline as just strict enough that the students learned but not so strict that one would dislike her. Like Tara, Tami, and Beau, Carrier stated that she never witnessed what she would consider to be inappropriate dress or behavior by Ms. Ogletree.

**e. Jennifer O.<sup>88</sup>**

Jennifer O., also an ex-student at Glen Rose High School and a contemporary of the other students, was not in Ms. Ogletree's French classes like the rest. Although she never had a class with Ms. Ogletree, she testified that she was familiar with Ms. Ogletree, and she never observed her wearing inappropriate clothing, using profanity, or making sexually oriented comments.

**f. Vanessa P.<sup>89</sup>**

Vanessa P., a student in the Glen Rose school system since kindergarten, had Ms. Ogletree for freshman English. She described Ms. Ogletree as an excellent teacher. Like the other ex-students

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<sup>87</sup> Tr. at p. 197.

<sup>88</sup> Tr. at p. 234.

<sup>89</sup> Tr. at p. 240.

who had a favorable opinion of Ms. Ogletree, Vanessa said she never observed Ms. Ogletree wearing inappropriate clothing or using inappropriate language.

**g. Ryan A.<sup>90</sup>**

Ryan A., a student in the Glen Rose school system from kindergarten through graduation and another classmate of Matt, Chayce, and Sam, was also in Ms. Ogletree's French classes with the three. He considers Ms. Ogletree, with whom he is also acquainted as a family friend, "the epitome of what a teacher should be." He testified that she was so effective in teaching him French that he was able to test out of two semesters of college French. He considers himself fluent in the language.

Like the other witnesses called by Ms. Ogletree, Ryan testified that he never saw Ms. Ogletree wear, say, or do anything sexually inappropriate. He summarily denied ever having walked in on Chayce and Ms. Ogletree, as Chayce alleged he had done during the third alleged sexual encounter; he said the claim was not true. Likewise, Ryan said he never noticed anything unusual about the relationships between Ms. Ogletree and either Chayce or Matt.<sup>91</sup>

Describing both Ms. Ogletree and her husband as wonderful people, Ryan testified that he considered them friends and mentors. Ryan opined that if it was established without a doubt that Ms. Ogletree had sexual relationships with Matt, Chayce, or Sam while she was their instructor, "if there was a camera that saw it," then maybe her teaching certificate should be revoked.<sup>92</sup>

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<sup>90</sup> Tr. at p. 251.

<sup>91</sup> Tr. at p. 255.

<sup>92</sup> Tr. at p. 266.

#### 4. Testimony of Teachers and Coaches

##### a. Peggy Agic<sup>93</sup>

Peggy Agic, a retired school teacher, taught French, Russian, and Journalism during her 7 ½ years at Glen Rose High School. She taught Ms. Ogletree while she was a student at the high school in the 1990s. Ms. Agic described Ms. Ogletree as “the best student we had,” getting honors in French every year. Ms. Agic described how after she retired the teacher who was hired to replace her was not working out, so she was talked into coming back to teach part time.

Ms. Ogletree later became a student teacher of Ms. Agic. Ultimately, based on Ms. Agic’s observations of Ms. Ogletree’s teaching abilities, she made an arrangement with the school district to delay her second retirement, thereby allowing Ms. Ogletree to finish college and take over as the high school’s French teacher.<sup>94</sup> It was also Ms. Agic who came out of retirement to teach Ms. Ogletree’s French classes following her termination.

Ms. Agic described Ms. Ogletree as a highly intelligent person and excellent teacher who establishes good teaching relationships in the classroom. She said she never saw Ms. Ogletree dress inappropriately, use profanity or sexual innuendo, or play favorites with the boys at the girls’ expense. Ms. Agic stated that she had never known Ms. Ogletree to lie or be deceitful to her, and as far as she knew Ms. Ogletree’s reputation in the community for truthfulness was fine. Ms. Agic stated she had known Ms. Ogletree’s husband since she began teaching at Glen Rose High School and that he had an excellent reputation for truthfulness.

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<sup>93</sup> Tr. at p. 278.

<sup>94</sup> Tr. at p. 282.

**b. Richard Dye<sup>95</sup>**

Richard Dye, a teacher and coach who has taught 23 years, including 17 at Glen Rose High School, testified about circumstances surrounding the courtship and marriage of the Ogletrees. Coach Dye coaches football, basketball, and track and teaches biology and science. He testified that he knows Ms. Ogletree both as a teacher and from her time as a student, when she was his son's girlfriend during their senior year.

Coach Dye also knows Doug Ogletree; as science teachers, they have been colleagues at the school for sixteen years. Coach Dye considers Mr. Ogletree an excellent teacher and person, and one who is well respected by the students, their parents, the faculty, and by the community in general. Judging by such as Ms. Ogletree's attendance at faculty meetings and comments by students, Coach Dye feels she is also probably an excellent teacher, but he has never seen her teach.

Like the other witnesses called by Ms. Ogletree, Coach Dye said he never observed her dress inappropriately, use profanity, or make sexually oriented remarks

**c. Pamela Harper<sup>96</sup>**

Pamela Harper retired as a Spanish teacher from Glen Rose High School in December 2002. She testified that she knew Ms. Ogletree, who was in her Spanish II class as a freshman, to be an excellent student. Ms. Harper also considered Ms. Ogletree to be an excellent teacher who was very well equipped for the job, proficient in French, responsible, and dedicated. She recalled that when four students were unable to fit her class into their schedules, Ms. Ogletree gave up her planning period in order to teach them. She was not aware of any complaints about Ms. Ogletree. Like Coach

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<sup>95</sup> Tr. at p. 309.

<sup>96</sup> Tr. at p. 320.

Dye and Ms. Agic, Ms. Harper never observed Ms. Ogletree dressing inappropriately, using profanity, or making sexually oriented remarks.

When asked, based on what she knew of Ms. Ogletree, whether she would be surprised that Ms. Ogletree had engaged in the alleged misconduct with Matt and Chayce, Ms. Harper responded that she would find it “incredible, totally unbelievable, impossible, based upon my knowledge of Joelle Ogletree.” She added that if it were just a matter of Ms. Ogletree’s character pitted against somebody else’s word, there was no way she could accept such allegations as true.

## **I. Observations Regarding Behavior of Matt, Chayce, and Sam**

### **1. Testimony of Former Students**

#### **a. Beau Y.<sup>97</sup>**

Beau Y. testified that he knew Matt pretty well; he described them as acquaintances. He did not know Chayce as well; they knew who each other was but did not have much in common. He considered Sam a friend; he had played basketball with Sam and had known him since Cub Scouts.

Characterizing Chayce and Matt as having a disregard for the rules in class, Beau stated that they showed no respect for the teacher, regardless of whether it was Ms. Ogletree or a substitute. He felt they generally exhibited the attitude that French class was a “blow-off.”<sup>98</sup>

In response to a question on cross-examination, Beau confirmed he would be surprised if Ms. Ogletree had testified her relationship with Matt, Chayce, and Sam in the classroom was a good one. When asked about any specific instances when he observed a conflict or argument between Ms.

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<sup>97</sup> Tr. at p. 154.

<sup>98</sup> Tr. at p. 157.

Ogletree and Matt, Sam, or Chayce, Beau described an incident when the French class was at a Wal-Mart while on a field trip. He stated that Chayce and Matt got the group kicked out of the store because despite being told to stop riding small bicycles around the store, they responded by laughing and pushing the bicycles to the side.

Beau rejected the premise that the Wal-Mart incident would be considered markedly different from the boys making up a story that a teacher had been sexually inappropriate with them. He characterized both situations as examples of Matt and Chayce trying to “push the limit” by seeing how far they could go. He stated that whether it was acting up in Wal-Mart or in class, “you give them an inch, they’re going to take a mile.” Beau said he felt Chayce and Matt were taking for granted the type of teacher Ms. Ogletree was and the education she was offering.<sup>99</sup>

Beau explained that he did not believe the alleged misconduct occurred because he was in the classroom with Matt and Chayce for three years and never saw any indication of any inappropriate talk or touching. He believed the two were making up the allegations in order to get attention.

**b. Tami W.**

Tami W. stated that she did not recall any specific incidents of conflict between Ms. Ogletree and Matt, Sam, or Chayce. She opined, though, that the three were very disrespectful of Ms. Ogletree because she was a young teacher. She also testified to an incident when she overheard Matt telling another student that he had enough of Ms. Ogletree and that he could sue her.

When asked whether she thought the three boys were lying regarding the allegations against Ms. Ogletree, Tami replied, “Absolutely.” She believed Matt was lying because she had always considered him a liar and “a very good actor.” She felt Matt’s behavior got worse over time, though she had always considered him a “jerk” who was very rude to her. Tami explained that Matt would

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<sup>99</sup> Tr. at p. 171.

make comments to people if they were heavier than him. In her words, “He could always dish things out but could never take them.”<sup>100</sup>

Tami described Sam as “kind of the bad-boy type” early in high school who later turned Christian, becoming “church going.” She thought of Chayce the same way. Although Chayce always joked around with people, she testified, he would always make it clear that he was just kidding. That Chayce and Sam would have lied regarding the sexual misconduct allegations against Ms. Ogletree was a product of Matt’s manipulative personality, in Tammy’s opinion. She said the three ran around together; she speculated that their involvement in the allegations was the product of a plan hatched by Matt.<sup>101</sup>

**c. Tara P.**

In regard to the allegations against Ms. Ogletree, Tara P. testified that she overheard Matt trying to convince Sam that he should “get in on it” because they were going to make money off Ms. Ogletree. She stated that she also heard Matt say he did not lie because he had taken a lie detector test.

In regard to the boys’ attitudes toward Ms. Ogletree, Tara thought that at some point nearly all of them had said something negative about her. She felt, though, that in some instances the comments were made in a joking tone. However, with Matt and Chayce, and less so with Sam, the comments seemed to be made in a meaner, more serious tone. Tara did not recall any specific conflicts between the any of the three and Ms. Ogletree, though.

When asked on cross-examination whether Matt’s attitude toward her and other students changed from their freshman to their sophomore and junior years, Tara responded that no, Matt had

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<sup>100</sup> Tr. at pp. 191-193.

<sup>101</sup> Tr. at p. 196.

always been real sarcastic; that he never seemed any different to her. She likewise felt that the personalities of the other two did not change over time.<sup>102</sup>

**d. Carrie V.**

Carrie V. recalled that Matt and Chayce would always cut up in class, acting immature and asking Ms. Ogletree inappropriate questions such as what certain explicit French phrases meant. She gave a specific example from a song in which the phrase meant, “Do you want to go to bed with me tonight?” Carrie said Ms. Ogletree would ignore such conduct and continue moving the class along. She acknowledged that Matt and Chayce were not the only ones cutting up, but she thought they were responsible for most of it and were the ones who took it “above and beyond all the time.”<sup>103</sup>

Carrie characterized Matt’s behavior as pretty typical for a 16-year-old boy, though she opined that there were some boys in the classroom who did not act as inappropriately. She felt he took such behavior to a more extreme level than other boys. When asked to compare Chayce’s behavior to Matt’s, Carrie described it as being about the same. She felt Sam did not act up quite as much, although he did cut up with the other two once in a while. She said she did not notice anything unusual in the relationship between Matt and Ms. Ogletree; she felt the same about Chayce’s and Sam’s relationships with her.<sup>104</sup>

Carrie testified there was nothing about the three boys that would lead her to believe they would try to get Ms. Ogletree in trouble by making up allegations against her. She noted, however, that beginning as early as their freshman year the boys would always joke with Ms. Ogletree, saying things like, “Me and Ms. Ogletree, you know,” though making it clear they were kidding. They would also ask Ms. Ogletree questions like, “What if I were older and what if you weren’t married,

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<sup>102</sup> Tr. at p. 210.

<sup>103</sup> Tr. at p. 220.

<sup>104</sup> Tr. at p. 222.

. . . , would you date me . . . ?” Suddenly, Carrie recalled, there was no more joking. The boys began saying they were serious, so it made others question whether they were telling the truth.

Carrie always considered the allegations to be false because of the inappropriate things Matt and Chayce had said to Ms. Ogletree previously, trying to get her to respond to them. Ms. Ogletree would always dismiss the remarks and continue with the lesson, according to Carrie. Carrie recalled that at times Ms. Ogletree would discipline Matt and Chayce; even though she would ignore their comments most of the time, sometimes they went too far and were sent to the hall or to the office.<sup>105</sup>

Carrie speculated that the reason the boys lied about the allegations was that they were overheard while joking around, people started talking about it, it snowballed, and, in her words, “they never fixed the problem.” When asked why the boys would persist in the lie for several years, Carrie stated that knowing them as she did, she thought they would stay with the stories because they would not want to admit they were wrong; they would not want anyone to discover they had lied, even if it meant Ms. Ogletree would have to go to prison for several years. Carrie opined that she honestly did not think the boys had intended for the situation to go so far; they just did not want to back down once it did.

Though acknowledging on cross-examination that it seemed unusual Matt, Chayce, and Sam would pursue such serious allegations despite having no apparent animosity toward Ms. Ogletree, Carrie affirmed her opinion that the boys were the type that would never admit they had lied. While it appeared there was no animosity, Carrie added, she was not sure whether there was any because she was not around the boys outside of school. She readily acknowledged, though, that she would have no first-hand knowledge about whether the alleged misconduct occurred.

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<sup>105</sup> Tr. at p. 225.

**e. Jennifer O.**<sup>106</sup>

Jennifer O. stated that she overheard Matt talking about his allegations against Ms. Ogletree. She recalled being in the “locker area” of the high school shortly after Ms. Ogletree had left the school. Matt was standing near her and talking with other students, she testified, when someone asked him if he was going to press charges. According to Jennifer, Matt’s response was “Yes, we’re going to sue the shit out of her.” Jennifer said she was unaware of any personal animosity between Matt and Ms. Ogletree.

**f. Vanessa P.**

Vanessa P. recalled that on the day the new teacher arrived following Ms. Ogletree’s dismissal the class was scheduled to watch a French video. Before class, however, Matt took the T.V. cart, rolled it over to a desk, tied the T.V. cord to the desk, hid the video, and shoved paper into the VCR.

On cross examination, Vanessa confirmed that she considered Matt ill-behaved and as a class clown and cut-up. She testified that while Matt could behave if he absolutely had to, she had many classes with him and he was always getting in trouble, speaking out of turn and pulling pranks. Vanessa characterized Matt as demanding attention but going about it the wrong way. As an example, she stated that when Ms. Agic arrived to take over the class after Ms. Ogletree’s termination, Matt switched names with Sam without Ms. Agic’s knowledge, causing their grades to get switched and upsetting Ms. Agic. According to Vanessa, Matt and Sam thought the incident was very funny.<sup>107</sup>

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<sup>106</sup> Tr. at p. 234.

<sup>107</sup> Tr. at p. 246.

In regard to Matt's ability to bring false allegations that could result in a person going to prison, Vanessa testified that because he was a liar and cared only about himself, she believed it was within his character to make-up the allegations against Ms. Ogletree.<sup>108</sup>

**g. Ryan A.**

Ryan A. testified that he considered Matt "an unusual character"; he said that he would not deal with Matt unless he had to. In regard to Matt's allegations against Ms. Ogletree, Ryan described an incident where, while he and Matt were working together in a musical theatre production during high school, Matt said something that angered him. In response to the comment, Ryan decided to go to the dressing room and be by himself for a moment. A few minutes later, when Matt came in, Ryan decided to ask Matt whether the alleged incidents involving Ms. Ogletree really had occurred. He recalled that Matt's response was "No." Ryan characterized the response not as "No, I don't want to talk about it," but as a straightforward answer that the incidents had not occurred.

Ryan recalled the camp-out at the Ogletree house when Matt began suffering a migraine. He testified that Matt had been complaining of a migraine headache. Upon volunteering to take Matt to get his medication, Ms. Ogletree loaded her daughter, Laura, into the back seat of her car, and the three of them left. Ryan stated that he did not notice anything out of the ordinary upon Ms. Ogletree's return. He recalled that Laura was sick with some type of breathing ailment, and Ms. Ogletree went back to the bedroom and gave Laura a breathing treatment. Likewise, Ryan did not recall anything unusual about Matt's behavior.<sup>109</sup>

In response to a question on cross-examination in which Ryan was asked to reflect on his relationship with Matt during high school, Ryan described it as a co-existence. He described the two of them as classmates in school and cast-mates during theatre productions. He testified that although

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<sup>108</sup> Tr. at p. 250.

<sup>109</sup> Tr. at p. 259.

he held no animosity toward Matt and respected him as an individual, Matt was rude to him, often belittling and humiliating him.<sup>110</sup>

Ryan was also asked on cross examination about the time he was angered by Matt's statement during their theatre production. He explained that he did not take Ms. Ogletree's absence well; losing a good teacher when she left the school messed up his routine and, thus, did not sit well with him. Consequently, he testified, he felt he had the right to know the truth about the allegations and wanted to get to the bottom of them. Ryan said he could not remember what Matt had said that angered him and ultimately caused him to confront Matt about the allegations, but it was not related to the allegations relating to Ms. Ogletree.<sup>111</sup>

## **2. Peggy Agic**

In regard to Matt's honesty in her classroom, retired teacher Peggy Agic recalled an incident where he and Sam had switched identities her first day back in the classroom when she took over the French class following Ms. Ogletree's departure. She testified that Matt always made higher grades than the Sam, and after he got a paper back in which his grade was lower than the one that was returned to Sam, he admitted that he was not really Sam. After realizing that the boys had been using each others' names the entire time on daily papers, she made them keep the grade that had been earned under their real name.<sup>112</sup>

For one six weeks' test, Ms. Agic testified, the class was required to write a paper on a topic chosen from a list she provided. As part of the process, she allowed the students to turn in drafts, which she would review, circle mistakes, and return to the student. They could then submit another draft, and she would repeat the process. According to Ms. Agic, Matt was the only student who had

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<sup>110</sup> Tr. at p. 262.

<sup>111</sup> Tr. at p. 264.

<sup>112</sup> Tr. at p. 278

not turned in the intermittent drafts. As a result, she became suspicious when he turned in his paper on the date the final drafts were due and it appeared to be plagiarized. She said her suspicion was based on the vocabulary being far beyond what the students had been taught to that point, the use of phrases Matt would not have been able to write, and the absence of research resources accompanying the paper.<sup>113</sup>

Ms. Agic testified that she told Matt she could not give him a grade until he supplied the source material. Matt supplied it the next day, she stated, and it turned out to be a four-page English paper off the Internet, from which he had translated, verbatim, many of the paragraphs contained in his paper. She added that the English version, when translated, was well above Matt's knowledge of French. "He was way over his head in trying to translate it," she said. Ultimately, Ms. Agic consulted with the school administrators and gave Matt a zero on the paper. Chayce also had submitted a plagiarized paper, according to Ms. Agic, and he was instructed to write the paper again, although he never admitted it was not his work.

In regard to Matt's claim that he became more quiet after the alleged incidents involving Ms. Ogletree, Ms. Agic testified that she did not find Matt to be quiet and withdrawn while he was in her class. She described him, instead, as exuberant at times, talkative, and always ready to answer questions even when he was not asked, "like most other teenage kids."<sup>114</sup>

On cross examination, Ms. Agic acknowledged that she and Ms. Ogletree had developed a friendship, that she was friends with Ms. Ogletree's parents, and that those friendships preceded her time with Matt, Chayce, and Sam in the French class. She did not become aware allegations had been made against Ms. Ogletree, though, until about two weeks after she had come back to take over in the

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<sup>113</sup> Tr. at p. 290.

<sup>114</sup> Tr. at p. 295.

French class after Ms. Ogletree's departure following the allegations. She added that she did not learn the nature of the allegations for months.<sup>115</sup>

Ms. Agic testified that consistent with her feelings about the character of Matt and Chayce, she never believed the allegations. In response to the question of whether she would believe allegations by a student regarding a sexual relationship with a teacher that really did happen, Ms. Agic answered that the allegation itself would not be proof enough. When presented with the scenario of three boys making the same allegation, she answered, "That would make it even less believable to me." She explained that based on her years of teaching she knew how kids could get together and put stories together.<sup>116</sup>

## **J. Courtship and Marriage of the Ogletrees**

### **1. Staff's Exploration of Relationship Between Doug and Joelle Ogletree**

Ms. Ogletree challenged Staff in its effort to question her former colleagues about the timing of her courtship and marriage to her husband. In response, Staff explained that it was not suggesting anything improper had happened between the Ogletrees prior to their courtship. Instead, the purpose of the probe was to show bias in the Ogletrees' witnesses. Staff argued that just as the witnesses never considered the possibility of an inappropriate relationship between the Ogletrees prior to Ms. Ogletree's graduation from high school, they likewise never at least considered the possibility that as a teacher she could have engaged in inappropriate conduct with students.

The ALJ was not persuaded that the age difference of the Ogletrees or the timing of their courtship and marriage bore any significant relevance to the disputed issues in this case. That Ms. Ogletree's ex-colleagues had never questioned the nature of the relationship was not significant in the ALJ's judgment of their credibility.

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<sup>115</sup> Tr. at p. 299.

<sup>116</sup> Tr. at p. 304.

## 2. Testimony

### a. Doug Ogletree

Doug Ogletree is a science teacher at Glen Rose High School and an adjunct professor at Hill College in Hillsboro. He testified that he met Ms. Ogletree when she was a student in his chemistry class at the high school. He described how, late in the summer after Ms. Ogletree's graduation from high school, they began dating.

Before he and Joelle began to date, Mr. Ogletree stated, he met with her parents, and their dating was never an issue. He said he also made his principal aware of their relationship, and the principal had no problem with it. In fact, he noted, the principal "kind of more or less" congratulated him. Several months later, in January of the following year, he proposed to Ms. Ogletree. He stated that the school was supportive of the engagement.

Mr. Ogletree categorically denied ever having had an inappropriate relationship either with Ms. Ogletree or any other person while they were a student. He confirmed that he had never been referred to the State Board for Educator Certification or the Texas Education Agency about his relationship with Ms. Ogletree. In addition, he stated that his teaching certificate is in good standing, he has never been fired from a school district, he has never been put under a growth plan, and his appraisals have been excellent. According to Mr. Ogletree, accolades he has received have included being voted Teacher of the Year in 1995, 1999, and 2006, and being named a Tandy Technology Scholar in 1996. Currently, he teaches U.I.L. science, and he has participated in other extra-curricular activities.<sup>117</sup>

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<sup>117</sup> Tr. at p. 346.

**b. Joelle Ogletree**

On cross-examination, Ms. Ogletree confirmed the testimony of her husband that they began dating around the first part of August the summer of her graduation from high school. She also confirmed that he had discussed the relationship with her parents and his building principal at the high school. Ms. Ogletree stated that she was not really concerned that suspicion might be cast on the relationship because her husband was held in very high esteem at the high school, was well-respected in the community, and people were familiar with knew his morals. Also, people knew she had been dating Coach Dye's son. She felt there were no doubts about her relationship with Doug in the minds of anyone who was around at the time. Ms. Ogletree stated that no one had asked any questions about the relationship until it was brought up by Staff at the SOAH hearing.<sup>118</sup>

**c. Richard Dye**

Coach Dye testified that while Ms. Ogletree was a student there would have been no relationship between her and Doug Ogletree. He stated that she and his son dated their senior year of high school; he described the two as "absolutely inseparable" during that time and well into the summer following their graduation. He explained that the two went their separate ways as they transitioned into college.<sup>119</sup>

He was not surprised when he heard Ms. Ogletree was dating Doug, nor did he ever suspect the relationship predated the break-up of his son and her.

**d. Peggy Agic**

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<sup>118</sup> Tr. at p. 499.

<sup>119</sup> Tr. at p. 315.

Ms. Agic stated that she was never curious about the age difference between Ms. Ogletree and her husband—at approximately 16 years—and the fact that they got married a year after Ms. Ogletree graduated. She did not agree with Staff’s premise that such a relationship would at least raise some questions about whether the relationship might have started while the younger person was still in school.<sup>120</sup>

**e. Pamela Harper**

Ms. Harper also knows Doug Ogletree, and, like Coach Dye, considers him an excellent teacher. She noted that he was named awarded as “Keeper of the Dream” in 2006, an honor he had also won before. She described the award as akin to teacher-of-the-year for the high school. She considers Doug Ogletree to be a very honest person. She never witnessed him having inappropriate interactions with Ms. Ogletree either when she was a student or as a teacher with other students. Likewise, she never heard anyone suggest such conduct was occurring.<sup>121</sup>

In regard to the marriage of the Ogletrees, Ms. Harper said she was aware of two other instances where a teacher married a former student. She commented that while there is always someone who would be suspicious of such occurrences, she was not suspicious of the relationship of the Ogletrees because she knew each of them and what was going on in their lives at the time.<sup>122</sup>

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<sup>120</sup> Tr. at p. 306.

<sup>121</sup> Tr. at p. 324.

<sup>122</sup> Tr. at p. 329.

#### IV. ANALYSIS

##### A. Summary of Conclusion

Not only did the evidence preponderate in Ms. Ogletree's favor, it demonstrated that she neither committed any of the sexual acts nor engaged in the other inappropriate behavior alleged by Chayce and Matt, as alleged in Staff's Second Amended Complaint. As the issues were thoroughly explored via witness testimony, investigative reports, and other evidence, a common theme began to emerge that was reinforced as the hearing progressed: the boys' allegations ranged from implausible to impossible.

Through her credible, persuasive testimony and that of her witnesses, Ms. Ogletree showed the allegations to be false. Where the occurrence of an alleged event was provable by corroborating evidence, Ms. Ogletree prevailed. Recurring inconsistencies in Matt's and Chayce's claims and recollections together with the generally farfetched nature of many allegations served only to strengthen the conclusion that they lied. That some of the more serious allegations could not have occurred undermined the plausibility of all the allegations.

Based on these conclusions, the ALJ recommends that no disciplinary action be taken against Ms. Ogletree's educator certificate and that her renewal application be granted in its entirety.

##### B. Allegations of Chayce W.

Throughout the investigation of the allegations by school officials, CPS, the criminal authorities, and SBEC, which began in October 2002 and proceeded through his deposition testimony in May 2006, Chayce wove a web of inconsistency and confusion. Chayce's allegation that he was present when Ms. Ogletree changed from her color guard uniform during the spring of 2002 was one of the few consistencies appearing in his various statements; it was a claim he formalized several times. He made the allegation as early as October 2, 2002 in a written statement to School Deputy

Shane Tipton; he repeated it to CPS investigators in May 2003; and he repeated it again while being deposed on May 25, 2006, shortly before the hearing.<sup>123</sup> Consequently, he clearly pinned the time period when the incident allegedly had occurred.

The alleged incident could not have occurred. Ms. Ogletree established, without a doubt, that she did not become the color guard sponsor until the fall of 2002, several months after the alleged uniform-changing incident. Therefore, she did not have the color guard uniform to change out of in the spring of 2002.

Also significant was the fact that Chayce first made his allegations on October 2, 2002. That he would have mistakenly recalled an incident as having occurred more than five months before, during a previous school year, when it actually had occurred no more than a few weeks before the allegations stretches credulity.

Also supportive of the conclusion that neither the uniform changing incident nor any of the other three alleged meetings with Ms. Ogletree had occurred was a written statement made by Chayce on October 1, 2002. In the statement, Chayce expressed disbelief regarding Matt's claim to having engaged in sexual conduct with Ms. Ogletree the summer before:

Matt told me that something went on, but I really didn't believe him.<sup>124</sup>

Nonetheless, the next day Chayce contradicted the statement about Matt by alleging that he himself had engaged in sexual relations with Ms. Ogletree the prior school year.

Even more confusing, and damaging to Chayce's credibility regarding the four alleged incidents of sexual misconduct, was testimony he gave during his deposition on May 25, 2006, about

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<sup>123</sup> At one point, in response to a question from Staff during his deposition, Chayce even speculating about whether it happened before or after his 16<sup>th</sup> birthday on April 2. (Ex. R-1)

<sup>124</sup> Ex. R-1 at exhibit g.

three weeks before the hearing. Chayce confirmed that he had not believed Matt's claim of sexual contact with Ms. Ogletree:

I just didn't think it would happen. I mean I thought Matt was exaggerating. . . . And I just didn't believe it. Because too crazy to be true.

Such an observation appears unreasonable when coming from someone who claimed to have previously experienced sexual encounters with the same teacher.

The details of Chayce's four alleged sexual encounters between and Ms. Ogletree, as recounted by Chayce, were not believable. That an obviously intelligent teacher would engage in sexual acts with a student on multiple occasions in her classroom during a conference period that coincides with the school's lunch periods, when she would be particularly aware of the likelihood of other visitors, is simply not plausible. That she had allegedly left her door unlocked on at least some of those occasions, with students and teachers passing by in the hallway and her husband's class being only a short distance away in another hallway, is incredible.

Also unbelievable was Chayce's description of his and Ms. Ogletree's relative positions while allegedly masturbating each other behind her desk during the third alleged incident of sexual contact: He, seated to her left with his right hand down her buttoned pants, penetrating her vagina while she had her left hand up his shorts and into his underwear, masturbating him, all the while with the classroom door unlocked. The ALJ agrees with Ms. Ogletree's characterization of the scene described by Chayce as requiring extremely contorted positions. The claim is simply too farfetched.

Other inconsistencies likewise contribute to the conclusion that all of Chayce's allegations were fabricated. Examples include his varying accounts of what Ms. Ogletree was wearing on different occasions; how his clothing was removed during the fourth alleged incident; and whether Ms. Ogletree took the initiative in allegedly performing oral sex on him or whether he had to coax her into it.

Chayce's untrustworthy testimony regarding the four alleged incidents of sexual misconduct likewise render untrustworthy his impressions about Ms. Ogletree's general behavior and dress as well as the atmosphere of her classroom. The consistent, credible testimony of Ms. Ogletree's witnesses serves to reinforce this conclusion.

### **C. Allegations of Matt B.**

As with Chayce's allegations of sexual misconduct by Ms. Ogletree, Matt's range from implausible to impossible. The ALJ concludes none of alleged incidents occurred. Likewise, neither Matt's claims regarding Ms. Ogletree's general behavior nor his description of the atmosphere of her classroom are supported in the evidence.

#### **1. Matt's Visits to the Ogletree House**

It is undisputed that Matt visited the Ms. Ogletree house twice; his testimony was consistent with the Ogletrees on this point. What happened during those visits is where the testimony sharply diverged. Nonetheless, the evidence strongly preponderated in favor of the Ogletrees' testimony and that of Ms. Ogletree's cousin, Danny Daniels, regarding the facts of the first visit: that during the summer of 2002 Matt he assisted Mr. Ogletree and Danny in moving a piano, and the three of them together with Ms. Ogletree and the Ogletrees' daughter went to Granbury together and had dinner. The Ogletrees and Mr. Daniels were detailed, consistent, and credible in describing the event. Even Sam F. stated that he had recalled Matt's statement early the following fall that he had helped the Ogletrees move the piano.

Conversely, when asked whether he had helped the Ogletrees move a piano during the summer of 2002, Matt replied, "I don't recall that, no." The ALJ is not persuaded that moving a piano would be so trivial an experience as to be forgotten.

Examples of other testimony by Matt that likewise proved troubling include the following:

- while on cross-examination, his denial of having made copies of a poem he had written about Ms. Ogletree, then acknowledging having testified in a deposition that he had made copies of the poem, only to then confirm that his deposition statement was his testimony;
- his acknowledgment that on different occasions he had told people varying versions about what had happened between Ms. Ogletree and him; and
- his failure to bring up his allegation about receiving a “hand job” from Ms. Ogletree until January 2003, when the allegations surfaced several months earlier.

Examples of inconsistent or otherwise troubling statements by Matt relating to Ms. Ogletree’s alleged sexual misconduct the night of the camp-out also render his credibility untrustworthy:

- his testimony that while Ms. Ogletree was taking him to his house to get his migraine medication the night of the camp-out nothing happened, though just three weeks before the hearing he testified in a deposition that Ms. Ogletree was very affectionate and very touchy on the trip to his house, wanting to hold his hand or have her hand on his shoulder or around his neck;
- his inability to recall whether the Ogletree child was in the car at the time Ms. Ogletree allegedly masturbated him for up to ten minutes after stopping on the side of the road while returning from his house the night of the camp-out;
- his testimony on direct examination that not a word was said between Ms. Ogletree and him from the time she passed by her house when returning from his house the night of the camp-out and while she masturbated him, even though he had stated in his May 31, 2006 deposition that Ms. Ogletree spoke in his ear “about the student-teacher relationship” while masturbating him; and
- his statement on direct examination that no kissing had taken place during the incident when contrasted with his acknowledgment on cross-examination that he may have previously stated in an interview that there was kissing.

## 2. Coded Notes

Although the coded notes represent the only allegation involving physical evidence, their meaning is subject to different interpretations, as reflected in the differing testimony of Matt and Ms.

Ogletree. Nonetheless, here, too, the ALJ finds Ms. Ogletree's testimony far more plausible. Her description of the context within which the notes were written was detailed and appeared logical, and her demeanor in recalling the incidents was calm and sincere. Unfortunately, Matt's testimony was limited to the assertion that Ms. Ogletree had written him some coded notes and later confirmed their sexual meaning. No testimony was elicited and none volunteered by Matt regarding the circumstances surrounding notes.

#### **D. The "I've Never" Game**

The ALJ was not persuaded by Matt's and Chayce's assertions that Ms. Ogletree either acted inappropriately while participating in the "I've Never" game or encouraged or allowed inappropriate behavior to occur during the game. In fact, a review of the evidence suggests that it may have been sexually-oriented comments made by Chayce, not Ms. Ogletree, that the class had to endure. This conclusion is reflected in the testimony of Beau Y. and Ms. Ogletree. While other former students also testified to inappropriate comments being made during the game, they did not specify the names of offending individuals. The ALJ found persuasive the consistent testimony of several of the former students that Ms. Ogletree responded to the inappropriate statements with what they felt was appropriate disciplinary action.

Matt's testimony about the game was not credible; it, too, was tainted by the general inconsistencies and contradictions apparent from a comparison of interviews, depositions, and live testimony he has provided since the allegations were made against Ms. Ogletree in October 2002. A review of those sources reveals, in fact, that Matt was not even present while the game was being played in Ms. Ogletree's class.

#### **E. Ms. Ogletree's Background, Teaching Abilities, Manner of Dress, and General Behavior**

Unlike the credibility of Matt and Chayce, whose testimony was repeatedly compromised by implausible claims, impossible claims, and other inconsistencies, Ms. Ogletree was consistently

portrayed by the many witnesses as a young teacher who excelled academically in high school and college; transitioned smoothly from college into a teaching position at Glen Rose High School consistent with the preconceived plan described by Peggy Agic; and discharged her teaching responsibilities in a caring and honorable fashion until her dismissal following the allegations by Matt and Chayce.

None of the approximately ten witnesses who testified on Ms. Ogletree's behalf, including three fellow teachers, had recalled her ever dressing inappropriately or using vulgar or otherwise inappropriate language. The witnesses variously praised her as generous with her time; a caring and effective teacher from whom they learned a lot; and someone they held in high regard.

Notwithstanding the fact that Doug Ogletree would have obvious motivations in testifying favorably about his wife, both his testimony and evidence of his character as it related to the allegations transcended his relationship to Ms. Ogletree. All of the witnesses who spoke about Mr. Ogletree, including Chayce and Matt, described him in glowing terms both as a teacher and a friend. Chayce stated that after the allegations surfaced nothing changed between him and Mr. Ogletree; he even remained in Ms. Ogletree's class throughout the 2002-2003 school year. Consistent with the witness testimony, the ALJ found Mr. Ogletree to be honest, forthright, and logical.

The ALJ also recognizes that Ms. Ogletree's many witnesses would presumably provide testimony favorable to her. Notwithstanding the ALJ's conclusion that they appeared genuine and reasonable in their recollections and impressions, they were able to provide examples to back them up. A detailed review of their testimony on both direct and cross examination uncovered not the slightest hint that Ms. Ogletree had ever acted inappropriately in any aspect of her personal or professional life or that she harbored a well-concealed dark side. That the witnesses' recollections were confirmed by each other, when none were privy to testimony provided at the hearing and most presumably had not seen each other in a couple of years, also proved persuasive.

Ms. Ogletree's demeanor while testifying seemed to confirm the observations of her former colleagues and students: that she is a highly intelligent and honest person who as a teacher discharged her professional duties in a responsible and caring manner. Her testimony was detailed, without hesitation or inconsistency, and her demeanor was resolute without appearing rehearsed or contrived. Nothing in either the substance or the tone of her testimony suggested deceit. Stated simply, the ALJ concludes she told the truth.

## V. CONCLUSION AND RECOMMENDATION

Based on the evidence, the Administrative Law Judge (ALJ) concludes that Ms. Ogletree did not engage in the alleged misconduct. Consequently, no disciplinary action should be taken against her teaching certificate, and her application for license renewal should be granted in its entirety.

## VI. FINDINGS OF FACT

1. Joelle Ogletree, Respondent, holds a Texas Educator Certificate (teaching certificate) issued by the State Board for Educator Certification (SBEC), a division of the Texas Education Agency (TEA).
2. The teaching certificate was effective December 17, 1999 through August 31, 2005.
3. Ms. Ogletree applied for renewal of the teaching certificate on June 5, 2005.
4. In July 2004, SBEC's Staff initiated an investigation into allegations that Ms. Ogletree had engaged in sexual misconduct with some of her students.
5. In January 2005, Staff informed Ms. Ogletree that a formal complaint had been filed with the SBEC relating to the allegations of sexual misconduct.
6. On December 18, 2005, SBEC notified Ms. Ogletree of its intent to deny her renewal application due to the ongoing disciplinary investigation.
7. A final determination on Ms. Ogletree's renewal application has not been made.
8. On April 27, 2006, Staff filed its Notice of Hearing on the allegations of sexual misconduct against Ms. Ogletree. The notice informed Ms. Ogletree of the time, date, and location of the hearing; the legal authority under which the hearing would be held; the factual allegations

asserted by Staff; and the applicable statutory and rule provisions relating to the factual allegations.

9. Ms. Ogletree received the Notice of Hearing.
10. On May 12, 2006, Staff filed with the State Office of Administrative Hearings its Second Amended Complaint (Complaint). The complaint informed Respondent that Staff was seeking the revocation of Respondent's teaching certificate based on allegations of sexual misconduct with two of her students.
11. The hearing before the State Office of Administrative Hearings convened June 20, 2006 and closed June 22, 2006, after three days of testimony.
12. Staff appeared at the hearing and was represented by Joyce Smith, Assistant Counsel for TEA's Legal Certification Enforcement Unit; and Christopher Jones, counsel for TEA. Ms. Ogletree appeared and was represented by her attorney, Tony Conners.
13. Ms. Ogletree never wore clothing inappropriate for a teacher; she never wore short skirts, tight pants, or plunging necklines.
14. Ms. Ogletree never made sexually inappropriate comments in her classroom generally or to Matt B., Chayce W., or Sam F. specifically.
15. Ms. Ogletree never intentionally leaned over in front of Matt, Chayce, or any other boys in order to show them her breasts.
16. Ms. Ogletree never intentionally or inappropriately rubbed up against Matt, Chayce, Sam, or anyone else.
17. Ms. Ogletree never acted in a sexually inappropriate manner with Chayce.
18. Chayce was never alone with Ms. Ogletree in her classroom while the door to the room was closed or locked.
19. Ms. Ogletree was not a sponsor of the high school's color guard during the spring of 2002; she first became sponsor the following fall semester.
20. Ms. Ogletree never wore a color guard uniform during the spring of 2002.
21. Ms. Ogletree never changed in front of Chayce.
22. Ms. Ogletree did not display her bra to Chayce.

23. Ms. Ogletree and Chayce never joked or teased about kissing and touching while sitting behind Ms. Ogletree' desk in her classroom.
24. Chayce never told Ms. Ogletree he would put his hand under her skirt.
25. Chayce never put his hand under Ms. Ogletree's skirt or in her pants.
26. Ms. Ogletree never exchanged notes of any type with Chayce.
27. Ms. Ogletree never flirted with Chayce.
28. Ms. Ogletree never sat on the floor of her classroom next to Chayce.
29. Ryan A., a classmate of Chayce, never entered Ms. Ogletree's classroom while she was alone with Chayce.
30. Chayce never asked Ms. Ogletree to perform oral sex on him.
31. Sexual contact between Ms. Ogletree and Chayce never occurred.
32. Ms. Ogletree never approached Chayce while visiting the video rental store where he worked and apologized to him for having kissed another student.
33. Ms. Ogletree never discussed rumors or allegations of sexual misconduct while visiting the video store.
34. Ms. Ogletree never had sexual contact or acted in a sexual manner with Matt.
35. Matt B. has visited the Ms. Ogletree house twice.
36. Matt was never alone with Ms. Ogletree at her house; Ms. Ogletree's husband and others were present both times Matt visited the Ogletree house.
37. Matt never played a game called "Truth or Dare" with Ms. Ogletree.
38. Ms. Ogletree never asked Matt what he would think of a teacher kissing a student.
39. Ms. Ogletree never kissed Matt.
40. At different times, Matt claimed both that he had not made copies of a poem he wrote about Ms. Ogletree and that he had made copies of it.
41. Matt is not credible because he told people differing versions about what allegedly had happened between him and Ms. Ogletree.

42. During the summer of 2002, Ms. Ogletree's husband, cousin, and Matt unloaded a piano from Ms. Ogletree's truck and moved it through the garage and into the house.
43. After the piano was moved into the house, Ms. Ogletree, her husband, their daughter, her cousin, and Matt went to Montana Restaurant in Granbury, where they ate dinner.
44. Ms. Ogletree engaged in no improper conduct with Matt on the day the piano was moved into her house.
45. During a camp-out several boys attended at the Ogletree house on September 20, 2002, Ms. Ogletree did not kiss Matt or have sexual contact with him.
46. Matt's estimates of the length of time Ms. Ogletree spent masturbating him varied from two-to-three minutes up to five-to-ten minutes.
47. While returning to her house after driving Matt to his house to get medicine for a migraine headache he was complaining of, Ms. Ogletree proceeded directly to her house and did not have sexual contact with Matt.
48. Ms. Ogletree's young daughter was with her and Matt when they traveled to Matt's house to get his migraine medication.
49. The night of the camp-out, Ms. Ogletree's car would not mechanically have allowed her to turn off its headlights but keep the motor running.
50. Ms. Ogletree wrote Matt three notes with coded meanings.
51. Ms. Ogletree never wrote Matt a note containing a message with sexual meaning or innuendo.
52. Ms. Ogletree never explained the coded meanings to Matt.
53. Each of the three coded notes was written by Ms. Ogletree in the open; she did not try to hide anything from the class.
54. Ms. Ogletree's French class played the "I've Never" game once, and possibly twice, while Matt and Chayce were her students.
55. The "I've Never" game was played at the end of a six weeks' test.
56. Ms. Ogletree never used profanity or made sexual innuendos during the "I've Never" game.
57. Ms. Ogletree did not allow sexually oriented conduct during the game.

58. Sam made sexual allegations against Ms. Ogletree so that the adults would leave him alone and the matter would go away.
59. Sam never saw Ms. Ogletree engage in any sexual acts or inappropriate touching with any students, including Matt and Chayce.
60. Sam F. never engaged in any sexual relationship or any other inappropriate conduct with Ms. Ogletree.
61. Joelle Ogletree graduated fifth in her class at Glen Rose High School in 1996.
62. Ms. Ogletree won honors in French every year she was in high school.
63. After graduating from high school, Ms. Ogletree enrolled at Tarlton State University on a presidential honor scholarship.
64. Ms. Ogletree had a 4.0 grade point average at Tarleton and was chosen as the outstanding graduate for the English Department at Tarleton.
65. In the spring of 2005, Ms. Ogletree completed her masters degree in English at Tarleton State University.
66. Until the allegations that led to her dismissal, Ms. Ogletree had never received any reprimands, was never placed on a growth plan, and no complaints or grievances had ever been filed against her.
67. Ms. Ogletree did not favor male students over female students.
68. Ms. Ogletree did not use profanity or make sexual comments or innuendos while at school.
69. Ms. Ogletree never acted in a sexually inappropriate manner with students.
70. Ms. Ogletree was a highly intelligent person and excellent teacher who establishes good teaching relationships in the classroom.
71. When four students were unable to fit Ms. Ogletree's class into their schedules, Ms. Ogletree gave up her planning period in order to teach them.
72. Ms. Agic, Coach Dye, and Ms. Harper are not aware of any complaints about Ms. Ogletree.
73. Doug Ogletree, Ms. Agic, Coach Dye, and Ms. Harper have never observed Ms. Ogletree dressing inappropriately, using profanity, or making sexually oriented remarks.
74. Chayce W. and Matt P. had a disregard for the rules in Ms. Ogletree's class.

75. Chayce W. and Matt P exhibited the attitude that Ms. Ogletree's French class was a blow-off class.
76. Chayce and Matt would often act up in Ms. Ogletree's class.
77. Chayce and Matt asked Ms. Ogletree the English translation of a particular French phrase from a song, when the phrase meant, "Do you want to go to bed with me tonight?"
78. At times, Matt and Chayce would try to see how much they could get away with in school.

## VII. CONCLUSIONS OF LAW

1. The Texas Education Agency, State Board for Educator Certification (Board) has jurisdiction over this matter pursuant to TEX. EDUC. CODE ANN. (The Code) § 21.031.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Proper and timely notice of the hearing was effected upon Ms. Ogletree pursuant to TEX. GOV'T CODE ANN. ch. 2001.
4. Staff had the burden of proof in this proceeding.
5. Staff failed to meet its burden of proof to show that Ms. Ogletree violated the Code or any of the Board's rules, including those contained in 19 TEX. ADMIN. CODE chs. 247 and 249.
6. Ms. Ogletree made timely and sufficient application for the renewal of her teaching certificate.
7. Based on the foregoing Findings of Fact and Conclusions of Law, the Board should take no action against Ms. Ogletree's teaching certificate.
8. Based on the foregoing Findings of Fact and Conclusions of Law, Ms. Ogletree's application to renew her teaching certificate should be granted.

**SIGNED August 21, 2006.**

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**GARY W. ELKINS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**