

January 27, 2014

A special meeting of the Board of Education of the Freeport Union Free School District was held on Monday, January 27, 2014, in the Board Room of the Administration Building. Debra Mulé, President of the Board of Education, called the meeting to order at 4:10 p.m.

Those present were: Ms. Debra Mulé, President
Ms. Vilma Lancaster, Vice President
Mr. Ronald Ellerbe, Trustee (arrived 4:20 p.m.)
Mr. Michael Pomerico, Trustee

Absent were: Mr. Anthony Miller, Trustee

Also present were: Dr. Kishore Kuncham, Superintendent of Schools
Dr. Mary Bediako, Assistant Superintendent for
Personnel, Special Projects & District Clerk
Mr. Gerard Poole, Assistant Superintendent for
Curriculum and Instruction
Mr. James Robinson Executive Director for Business
Mr. Michael Singleton, Executive Director of
Operations

Also absent were: none

The number of people in the audience at the opening of the meeting was 0.

At 4:11 p. m. Mr. Pomerico made a motion to adjourn to executive Session for one particular matter of personnel. The motion was seconded by Ms. Lancaster and passed unanimously. The vote was: Lancaster, Mulé and Pomerico.

At 4:23 p.m. Mr. Pomerico made a motion to return to open session. The motion was seconded by Ms. Lancaster and passed unanimously. The vote was: Ellerbe, Lancaster, Mulé and Pomerico.

Action

The following motion, made by Mr. Pomerico, seconded by Ms. Lancaster, and was unanimously adopted:

WHEREAS the Supreme Court, State of New York, County of Nassau, ordered that the decision to terminate John O'Mard be remanded to the Board for the purpose of having the Board make a determination consistent with the Court's decision and order dated December 17, 2013 and entered on December 19, 2013;

WHEREAS, the Court directs the Board to determine whether or not John O'Mard's late request for an Education Law §3020-a hearing, which upon information and belief was sent to the Clerk of the District on or about April 24,

2013, represents an unexcused failure to comply with Education Law §3020-a(2)(d);

WHEREAS, the Court directs the Board to determine whether or not John O'Mard has waived his right to an Education Law §3020-a hearing, by virtue of his unexcused failure to timely request an Education Law §3020-a hearing;

WHEREAS, the Court directs the Board to determine whether or not John O'Mard's mailing of his Education Law §3020-a hearing request to the State on April 12, 2013 was in substantial compliance with Education Law §3020-a;

WHEREAS, the Board finds that the late request for an Education Law §3020-a hearing, upon information and belief mailed by John O'Mard on or about April 24, 2013, fails to offer an excuse for the late hearing request;

WHEREAS, the Board has reviewed papers submitted to the Court on August 20, 2013 in John O'Mard's Article 78 proceeding which resulted in the Court's decision and order of December 17, 2013, and which contains excuses which, in the Board's opinion, lack credibility;

WHEREAS, John O'Mard concedes in the papers submitted to the Court on August 20, 2013 that he sent his request for a hearing to the New York State Department of Education on April 12, 2013 and not to the Board's District Clerk;

WHEREAS, John O'Mard concedes in the papers submitted to the Court on August 20, 2013 that the mailing of his request for a hearing to the Superintendent of Schools was untimely as it was not mailed until April 24, 2013;

WHEREAS, the District Clerk served John O'Mard with a New York State Education Department Hearing Request/Waiver for Education Law §3020-a Charges Form that indicates in boldface lettering that the form must be returned "within 10 days of receipt of the charges to the Clerk or Secretary of the Board of Education that brought charges against [the employee];"

WHEREAS, John O'Mard's hearing request, dated and signed April 7, 2013, indicates that he had legal representation at the time that he sent his request for a hearing to the State Education Department;

WHEREAS, John O'Mard's credibility is questionable in light of the material misrepresentations he has made to the Board in the past concerning his background and fitness to work in the School District;

WHEREAS, the Board determines that John O'Mard's failure to timely notify the District Clerk or the secretary of his desire for a hearing is considered to be an unexcused failure to comply with Education Law §3020-a(2)(d), as John O'Mard's request was not served in a timely manner and was served on the wrong party;

WHEREAS, the Board finds that John O'Mard's explanation for his failure to comply with Education Law §3020-a(2)(c) is insufficient as John O'Mard has

effectively asserted that he was mistaken as to the law and his rights despite the fact that the law and his rights were clearly set forth in the hearing request and despite being represented by counsel;

WHEREAS, the Board determines that the mailing of the hearing request to the State on April 12, 2013 was not in substantial compliance with Education Law §3020-a(2)©;

WHEREAS, John O'Mard's unexcused failure to timely notify the clerk or secretary of his desire for a hearing is deemed to be a waiver of such hearing;

WHEREAS, pursuant to such waiver, the Board of Education determined the case and fixed the penalty to be imposed, in accordance with Education Law §3020-a, and consistent with the Court's decision and order of December 17, 2013 and entered on December 19, 2013;

THEREFORE, BE IT RESOLVED, that John O'Mard has waived his right to a hearing under Education Law §3020-a by virtue of his untimely request for a hearing and the unexcused failure to comply with the provisions of §3020-a regarding the service of said request;

BE IT FURTHER RESOLVED, that John O'Mard is hereby terminated from his position retroactive to April 25, 2013; and

BE IT FURTHER RESOLVED, that the District Clerk is hereby directed to immediately file notice of such waiver with the New York State Commissioner of Education and to perform all of the tasks and functions necessary to comply with 8 NYCRR § 82-1.5(d).

The vote was: Ellerbe, Lancaster, Mulé and Pomerico.

Adjournment

At 4:25 p.m., with no other business, on a motion by Mr. Ellerbe and seconded by Ms. Lancaster, the Board adjourned the meeting. The motion carried unanimously. The vote was: Ellerbe, Lancaster, Mulé and Pomerico.

Respectfully submitted,

Mary Bediako
Clerk of the Board