

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

DOCKET NO. 219-2011-CV-00349

DAVID K. TAYLOR

v.

THE OYSTER RIVER COOPERATIVE SCHOOL BOARD

and

HENRY BRACKETT, Chairman

DAVID K. TAYLOR'S FIRST AMENDED PETITION FOR INJUNCTIVE RELIEF
PURSUANT TO RSA 91-A:7

NOW COMES David K. Taylor, ("Taylor") a citizen of the town of Durham, New Hampshire, and petitions this Court pursuant to RSA 91-A:7 for injunctive relief against the Oyster River Cooperative School Board, (the "Board") a body corporate and politic, Henry Brackett, Chairman of ORCSB, ("Brackett") and states as follows:

INTRODUCTION

1. The New Hampshire Constitution, Part 1, Article 8, provides that all power derives from the People and that public bodies are at all times accountable to the People. This Constitutional grant ensures that the People's right of access to governmental proceedings and records is not unreasonably

restricted. This grant guarantees that government is open, accessible, accountable and responsive.

2. By enacting, RSA 91-A, the New Hampshire legislature declared that the open conduct of public business is essential to a democratic society. RSA 91-A establishes rules to ensure an open, public process in government. In recent months, the Board has repeatedly violated the tenets of RSA 91-A, has actively avoided compliance with RSA 91-A:2 and RSA 91-A:3, and has pursued a hidden agenda that is destructive to the high quality of education expected by the citizens of Durham, Madbury and Lee.

PARTIES

3. David K. Taylor is an individual with a resident address of 16 Surrey Lane, Durham, County of Strafford, and State of New Hampshire.

4. The Oyster River Cooperative School Board is a political body organized under the laws of the State of New Hampshire with a principal address of 36 Coe Drive, Durham, County of Strafford, and State of New Hampshire.

5. Henry Brackett is the Chairman of the Oyster River Cooperative School Board, with a principal address of 36 Coe Drive, Durham, County of Strafford, and State of New Hampshire.

VENUE

6. Venue is proper in this Court because the parties and actions complained of all occurred within the jurisdiction of this Court.

FACTUAL ALLEGATIONS

7. In the spring of 2011, the Board set upon a course of conduct to terminate the contract of the Oyster River Cooperative School District Superintendent. In their mission to terminate that contract, the Board and Brackett failed to follow the Right-to-Know statute, RSA 91-A. The Board and Brackett failed to arrange meetings as required under RSA 91-A. And when Taylor and others made Right-to-Know requests pursuant to RSA 91-A, both the Board and Brackett failed to properly answer those requests.

8. On March 24, 2011, Brackett called attorney Kim Memmesheimer to retain her services without a vote at a posted meeting of the Board to give him authority to do so. There is no recorded vote at a posted meeting where the Board retained this attorney.

9. For the March 30, 2011 special meeting of the Board, the notice for that meeting listed no subject for the content of that meeting. For the April 11, 2011 special meeting of the Board, there are no minutes for the public session. The non-public minutes do not list all the attendees, the vote to enter non-public was not by roll call and the result of that vote is not recorded. For the April 13, 2011 special meeting, the notice gives no subject for the content of that meeting. The Board entered non-public session to discuss a press release

statement after being told that legal counsel had specifically advised them against doing so.

10. On April 19, 2011, Brackett began to arrange a meeting with attorneys Daniel Hoefle and Kim Memmesheimer without a vote at a posted meeting of the Board to give him authority to do so. Specifically, on April 19, 2011 at 11:18 a.m. Brackett emailed other Board members, Ann Wright, Ann Lane, Megan Turnbull, Jim Kach, Jocelyn O'Quinn, Krista Butts to arrange a meeting that was purportedly excluded from the requirements of RSA 91-A (a "non-meeting") on April 21, 2011 with Hoefle, et. al. at their office. See attached Exhibit 1. All Board members except Brackett have released this document arranging the purported non-meeting. On April 21, 2011 the Board held a non-meeting with Hoefle, et. al. at the Hoefle, et al. office. See attached Exhibit 2.

11. On April 20, 2011 members of the Board met at the Durham Police Station. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet. No documents arranging this purported non-meeting have been released. On April 21, 2011, the Board met with attorneys Daniel Hoefle and Kim Memmesheimer. At this meeting or at another private meeting, the Board deliberated and decided to accept the fee schedule for the attorneys and to be represented by them. These deliberations and decisions did not occur at a posted meeting.

12. On April 27, 2011, prior to a posted regular meeting, the Board or members thereof met privately. At this meeting or another private meeting they worked on a public statement about the ORHS Principal search. No documents arranging this purported non-meeting have been released.

13. On April 29, 2011, Brackett met again with attorney Kim Memmesheimer without a vote at a posted meeting of the Board to give him authority to do so. Following that meeting, the Board held yet another non-meeting with Hoefle, et. al. at their office. See attached Exhibit 2. At this meeting, or another private meeting, they deliberated about alternatives in the Superintendent contract and decided to negotiate with the Superintendent to consummate a separation agreement. These deliberations and decisions did not occur at a posted meeting.

14. On April 30, 2011 at 9:17 and 9:21 p.m. Board member Ann Wright sent two emails to Board members Jim Kach, Ann Lane, Megan Turnbull, Jocelyn O'Quinn, and Krista Butts about a purported non-meeting on April 29, 2011 and that Brackett called her by phone on April 28, 2011 to arrange that meeting. See attached Exhibits 3 and 4.

15. On May 6, 2011, Brackett and Board members Ann Lane and Jim Kach met at the Durham Town Council Room. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to

meet. No documents arranging this purported non-meeting have been released.

16. At the May 11, 2011 regular meeting of the Board, member Ann Lane participated over the phone. The minutes do not record the reason she was on the phone and votes did not occur by roll call. On May 16, 2011, Brackett, Ann Lane and Jim Kach met at the Ann Lane's House. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet. No documents arranging this purported non-meeting have been released.

17. On May 20, 2011 the Board held yet another non-meeting with Hoefle, et. al. at their office. See attached Exhibit 5. No documents arranging this meeting have been released. At this meeting or another private meeting the Board deliberated and decided on terms or tentative terms of the separation agreement, the separation agreement for the press release and how to begin the search for the interim superintendent. These deliberations and decisions did not occur at a posted meeting.

18. On May 22, 2011, members Brackett, Megan Turnbull and Jocelyn O'Quinn of the Board as a committee, subcommittee or subordinate body of the Board concerned with public relations met by conference call with Arthur "Skip" Hanson of the New England Secondary School Consortium (NESSC) and Duke

Albanese of the Great Schools Partnership. A quorum of the subordinate body members was not at a common location. At this meeting or another private meeting these members interviewed this firm for public relations and deliberated and decided whether to keep this firm as a candidate and discussed other candidate firms and public relations issues. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet.

19. On May 23, 2011, members Brackett, Megan Turnbull and Jocelyn O'Quinn of the Board as a committee, subcommittee or subordinate body of the Board concerned with public relations met with attorney Kim Memmesheimer and Raymond Mitchell of Trident Communications Group. At this meeting or another private meeting the Board members interviewed this firm for public relations and deliberated and decided on a recommendation to the full board on public relations firms as well as how to respond to a letter from the ORHS Senior Student Senate about graduation. These deliberations and decisions did not occur at a posted meeting. While this group met, all but one member of the remaining Board waited outside the room. Following the interview or at another private meeting, the Board then met to deliberate and decide on the recommendation on public relations firms and related issues. These deliberations and decisions did not occur at a posted meeting. See attached Exhibit 5.

20. On May 24, 2011 members of the Board met. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet. No documents arranging this purported non-meeting have been released.

21. On May 27, 2011, Board members Brackett, Megan Turnbull and Jocelyn O'Quinn as a committee, subcommittee or subordinate body of the Board concerned with public relations met by conference call with Rhoades Alderson of New Harbor Group. At this meeting or another private meeting they deliberated and decided how to handle public relations concerning a letter from the ORHS Senior Student Senate about graduation. They decided that Jocelyn O'Quinn would draft a letter in response. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet.

22. On June 3, 2011 members of the Board constituting the "Legal Team" met. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet. No documents arranging this purported non-meeting have been released.

23. On June 6, 2011 members Brackett, Megan Turnbull and Jim Kach as a committee, subcommittee or subordinate body of the Board concerned

with searching for an interim superintendent met at the Durham Police Station. See attached Exhibit 6. At this meeting or another private meeting, these members interviewed Arthur “Skip” Hanson for interim superintendent and they deliberated and decided to keep him as a candidate. They also discussed the interim superintendent search process and discussed names of potential candidates. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet.

24. On June 8, 2011 the Board met in a special non-public meeting and workshop. The notice for these meetings was not posted 72 hours beforehand. The notice does not list the appointment of an interim Oyster River High School Principal nor a press release about the interim Oyster River High School Principal. At the public workshop, the Board deliberated and decided to elect Todd Allen as interim Oyster River High School Principal and to issue a press release on this election.

25. On June 9, 2011 members of the Board met, probably Brackett, Megan Turnbull and Jocelyn O’Quinn of the Board as a committee, subcommittee or subordinate body of the Board concerned with public relations by conference call with Rhoades Alderson and Arthur “Skip” Hanson. At this meeting or another private meeting they deliberated and/or decided on press releases for the separation agreement, interim superintendent search and the

timing of these releases. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet. No documents arranging this purported non-meeting have been released.

26. On June 10, 2011, Board members Brackett, Megan Turnbull and Jim Kach as a committee, subcommittee or subordinate body of the Board concerned with searching for an interim superintendent met at the Durham Police Station. See attached Exhibits 6 and 7. At this meeting or another private meeting these members interviewed 2 candidates for interim superintendent and they deliberated and decided whether to keep them as candidates. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet.

27. On June 12, 2011 at 7:21 a.m. Ann Wright sent an email to Brackett, Jocelyn O'Quinn, Krista Butts, Jim Kach, Ann Lane, and Megan Turnbull describing board deliberations over the phone and apparently without a meeting being duly noticed and called. See attached Exhibit 8. All Board members except Brackett have released this document.

28. On June 13, 2011 Board members Brackett, Megan Turnbull and Jim Kach as a committee, subcommittee or subordinate body of the Board concerned with searching for an interim superintendent met at the Durham

Police Station. See attached Exhibits 6 and 9. At this meeting or another private meeting these members interviewed 1 candidate for interim superintendent and they deliberated and decided whether to keep him or her as a candidate. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet.

29. On June 13, 2011 the Board met with attorney Kim Memmesheimer. At this meeting or another private meeting, the Board deliberated and decided to hold finalist interviews for interim superintendent in non-public session and to write public relations documents like a list of frequently asked questions (FAQs) and other statements. They deliberated and decided how to announce the separation agreement and interim superintendent search. These deliberations and decisions did not occur at a posted meeting. No documents arranging this purported non-meeting have been released.

30. On June 14, 2011 at 4:47 p.m. Ann Wright sent an email to Brackett, Jocelyn O'Quinn, Krista Butts, Jim Kach, Ann Lane, and Megan Turnbull describing those actions taken at the June 13 non-meeting. See attached Exhibit 10. All Board members except Brackett have released this document.

31. On June 14, 2011, Board members Brackett and Megan Turnbull as a committee, subcommittee or subordinate body of the Board concerned with searching for an interim superintendent met at the Durham Police Station. See

attached Exhibits 6 and 7. Jim Kach was informed about this meeting but could not attend. At this meeting or another private meeting these members discussed the interim superintendent search with Dr. Lyonel Tracy. They received names of potential candidates and Dr. Tracy described educational initiatives. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet.

32. Before June 15, 2011 members of the Board deliberated and decided to not write FAQs or other documents. For these deliberations and decisions, no notice was posted, they were not done in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving them authority to meet, deliberate or decide for the Board. No documents arranging any purported non-meetings of these deliberations and decisions have been released.

33. At the June 15, 2011 regular meeting of the Board, despite clearly interviewing interim superintendent candidates, Brackett stated that the prior meetings, such as that on June 10, 2011 at the Durham Police Station, were not interviews for interim superintendent. At this meeting, the Board delegated members Krista Butts and Jocelyn O'Quinn to talk with press about the separation agreement and interim superintendent search.

34. On June 15, 2011 the board's purpose in using non-meetings and failing to properly document its meetings became clear. On June 15, 2011, the Board and Superintendent Howard Colter signed a separation agreement with an effective date of June 30, 2011. The minutes of the non-public meeting were not published within 72 hours and did not contain the full motion when first published. In particular, the dollar amount was not published. There are no recorded votes at any posted meetings for any specific attorneys, public relations firms or others to be paid as part of this settlement. This was announced at the June 15, 2011 regular school board meeting. Prior to this agreement and announcement of the agreement, the Board had deliberated and made many decisions leading up to the buyout of Superintendent Colter's contract. The Board had hired professionals, including an attorney, to advise them in that matter. No documents about the search for or selection of the attorney have been released.

35. The Board's deliberations and decisions with regard to buying out Mr. Colter's contract do not appear in any notice of meetings public or non-public as required by RSA 91-A:2 and RSA 91-A:3. No minutes have been recorded and made available to the public regarding these actions as required by RSA 91-A:2 and RSA 91-A:3. By these actions, the Board has used the vehicle of a non-meeting to circumvent the spirit and purpose of RSA 91-A and have violated RSA 91-A. See RSA 91-A:2, III (d).

36. On June 15, 2011, the Board announced that they would hire an interim Superintendent to replace Mr. Colter. Brackett also announced that he had consulted with an attorney and begun a search for an interim superintendent. Brackett said he had already contacted educational professionals throughout the State of New Hampshire for advice and to help identify qualified interim candidates. Brackett and other Board members already had initial meetings with candidates. Prior to this, the Board deliberated the decision to hire an interim superintendent and to contact candidates. The Board authorized Brackett to consult with an attorney and to begin the search for an interim Superintendent. The Board also authorized Brackett and other members to meet with candidates.

37. These deliberations and decisions do not appear in any notice of meetings public or non-public as required by RSA 91-A:2 and RSA 91-A:3. No minutes have been recorded and made available to the public regarding these actions as required by RSA 91-A:2 and RSA 91-A:3. There are no recorded votes at posted meetings giving Brackett or any other members authority to meet or otherwise act on behalf of the Board. By these actions, the Board has used the vehicle of a non-meeting to circumvent the spirit and purpose of RSA 91-A and have violated RSA 91-A. See RSA 91-A:2, III (d).

38. On June 20, 2011 the Board met for a special non-public meeting. At this meeting they deliberated and decided on interview questions for interim

superintendent. There was no roll call vote to enter non-public. Also, on June 20, 2011 the Board met for a special workshop. The minutes do not record all the attendees.

39. On June 20, 2011, Taylor filed a Right-to-Know request pursuant to RSA 91-A for "all records of communications (emails, etc.) from 1 Jan. 2011 involving school board members, other government officials such as selectmen or state officials, or administrators of the school district or towns of Durham, Lee or Madbury concerning any arrangements for non-meetings as defined in the [New Hampshire] Right to Know law. This includes but is not limited to communications concerning when and where meetings might take place, who might attend, and what the subject might be. Please also send any such records of communications involving the search for or selection of an attorney involved in any such non-meetings." See attached Exhibit 11.

40. On June 21, 2011 members Krista Butts, Jocelyn O'Quinn and Megan Turnbull as a committee, subcommittee or subordinate body of the Board concerned with press interviews met by conference call with Rhoades Alderson of New Harbor Group. A quorum of the subordinate body was not at a common location. At this meeting or another private meeting these members discussed how to be interviewed by the press. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. There is no recorded vote at a posted meeting of the Board giving Megan Turnbull

authority to meet. Krista Butts and Jocelyn O'Quinn were delegated to meet with the press at the June 15, 2011 regular meeting.

41. On June 21, 2011, a Board staff member, Wendy L. DiFruscio, acknowledged receipt of the Right-to-Know request and stated "Please note that some of the information will not be available until June 30th 2011." See attached Exhibit 12.

42. On June 27, 2011, members Krista Butts and Jocelyn O'Quinn as a committee, subcommittee or subordinate body of the Board concerned with press interviews met with Roni Reino a reporter for Foster's Daily Democrat. For this meeting, no notice was posted, the meeting was not held in public, and no minutes were posted. On June 27, 2011 6 out of the 7 members of the Board met for a special non-public meeting. The notice for this meeting does not give a subject, there is no motion to enter non-public, and there was no roll call vote to enter non-public. A grievance was added to the agenda.

43. On June 30, 2011 the Board met and acted to implement the separation agreement with Superintendent Colter: "Motion made by Ann Lane, seconded by Jim Kach to expend \$185,000 from the unspent surplus fund as stated in the terms of the Contract Settlement and related attorney fees and consultant fees. Motion passed by a vote of 5-0."

44. On June 30, 2011 fewer than 7 of the Board met for a special meeting. The notice does not give a subject and was posted fewer than 72 hours beforehand. The appointment of Meredith Nadeau as interim superintendent was added to the agenda.

45. On June 30, 2011 Wendy L. DiFruscio notified Taylor that "I want to let you know that the information requested is still being compiled for review. We tentatively plan on releasing any information that can be released by the end of next week, or the beginning of the following week at the latest." See attached Exhibit 13. On July 7, 2011 Wendy L. DiFruscio notified Taylor that "In speaking with the SD attorney, please be advised that the information requested in your first set of RTK's is expected to be available mid week of July 15th." See attached Exhibit 14.

46. On July 5, 2011 the Board met for a special meeting. The notice does not give a subject and was posted fewer than 72 hours beforehand. The notice was not posted in 2 places, but the Board interviewed final candidates for interim superintendent and entered non-public session to deliberate about them. On July 6, 2011, the Board met for a special non-public meeting with member Krista Butts participating by phone. At this meeting the Board deliberated and decided to hire Leon Levesque as Interim Superintendent. The notice was posted fewer than 72 hours beforehand. The minutes do not record why Krista Butts was on the phone.

47. On July 7, 2011 Taylor notified Wendy L. DiFruscio, Interim Superintendent Meredith S. Nadeau, Bracket and Vice Chairman Ann Wright that "I find this further delay unreasonable. I asked on 20 June. By law I should have had the documents by 25 June. You responded a few days later the documents would not be released until 30 June. It is now 7 July and you are saying they won't be available until 15 July (if then!)." Taylor further asked "I assume by now at least some of the documents I requested have been collected and reviewed. Please forward all those reviewed documents to me immediately. Further, please detail what documents you are waiting on, specifically what the reason is for the delay, and what can be done to expedite their release." See attached Exhibit 15.

48. On July 7, 2011 Wendy L. DiFruscio sent by electronic mail an attached file in electronic Portable Document Format (PDF) containing 49 pages of copies of electronic mails between members of the Board. See attached Exhibit 16. She also included an attached PDF file of 2 pages including a cover letter and invoice for requested copies. In the cover letter, Wendy L. DiFruscio noted "Some of the governmental records that respond to your request are available for your review and copying at the SAU office. We are still waiting for the School Board Chairman's e-mails. Those e-mails will then be reviewed by School District counsel. The expected date for completion of that review is the middle of next week. At that time, additional governmental records that

respond to your request and that are not exempt from disclosure will be available for you to review and copy at the SAU office." See attached Exhibit 17.

49. The July 7, 2011 invoice was for \$3.04 for 38 copies, namely 47 pages less the first 9 that are provided for free. See attached Exhibit 18.

50. On July 7, 2011 Taylor asked "However, I noticed that any identifying information about interim superintendent candidates was redacted. I would like to ask again under RSA 91-A for all the information about these candidates that you can provide. I refer you to NH Supreme Court case Lambert v. Belknap County Convention (attached) that argues there is a public interest in disclosure of such identifying information as the list of names and cover letters for candidates. I think the office of Superintendent is clearly of equal or greater interest to a community as sheriff as described in Lambert." See attached Exhibit 19.

51. On July 11, 2011 Wendy L. DiFruscio acknowledged the request from Taylor for the redacted information. See attached Exhibit 20. On July 11, 2011 Wendy L. DiFruscio responded that the redacted information would not be disclosed. See attached Exhibits 21. On July 13, 2011 Taylor paid \$3.04 by check to the Oyster River Cooperative School District.

52. On July 13, 2011, Taylor asked about the status of his right to know request. See attached Exhibit 22. On July 13, 2011 Wendy L. DiFruscio

responded that she "received this inquiry and ... forwarded [it] to the school board." See attached Exhibit 23. On July 20, 2011 the ORSB met and Chairman Henry Brackett participated by phone because he was on vacation. On July 21, 2011, Taylor asked about the status of the right to know request and noted "given it has been over a full month, the failure to satisfy this request in full is a clear and knowing violation of RSA 91-A by the board, and as you indicated in your letter of 7 July, specifically by Chairman Henry Brackett. Please let me know whether you have still not received any documents for review from Mr. Brackett. Also, as I noticed at last night's board meeting, please confirm that Mr. Brackett is out of town on vacation while this request is still pending his action." See attached Exhibit 24.

53. On July 13, 2011 Interim Superintendent Leon Levesque started at ORCSD. His contract was signed by Brackett. There is no recorded vote at a posted meeting of the Board giving Brackett authority to negotiate the terms or sign the contract. There are no minutes of any Board meetings where the contract was deliberated or decided by the Board or members of the Board prior to the signing. Also on July 13, 2011 4 of the 7 members of the Board met in a special meeting. The notice was posted fewer than 72 hours beforehand and was only for a non-public session even though they met in public. The Board deliberated and decided on Special Education at ORMS and the District Special

Education Director even though the notice did not give either subject. The non-public minutes do not describe the subjects discussed.

54. On July 20, 2011 the Board met for a regular meeting. The minutes do not list the actual motions but were changed to reflect roll call votes retaken at the end.

55. On July 21, 2011 Wendy L. DiFruscio responded "Please be advised that at this point we have still not received any information from the board chair. Also, I only know what I was told and that being the Mr. Brackett would be out of town on vacation this week." See attached Exhibit 26.

56. On July 27, 2011 the Board met for a special workshop. The notice was posted fewer than 72 hours beforehand. The Board deliberated and took action at the workshop. On August 5, 2011 the Board met for a special workshop. The minutes do not record a motion to adjourn. On September 7, 2011 the Board met for a regular meeting with a non-public session. The regular meeting minutes do not state the specific RSA used to enter non-public. The non-public minutes were not published within 72 hours and do not list Brackett as an attendee. On September 12, 2011 the Board met with attorney Dennis Ducharme. At this meeting the Board deliberated and decided not to settle the present case out of court. These deliberations and decisions did not occur at a posted meeting.

57. To date, Taylor's request for information from the Board under RSA 91-A have not been fully complied with or answered. By these actions, the Board has acted in a manner which circumvents the spirit and purpose of RSA 91-A and have violated RSA 91-A. See RSA 91-A:2, III (d).

58. To date, Taylor's request for information from Brackett under RSA 91-A have not been fully completed with or answered. By these actions, the Board has acted in a manner which circumvents the spirit and purpose of RSA 91-A and have violated RSA 91-A. See RSA 91-A:2, III (d).

COUNT I

RSA 91-A

(Violation of the Right to Know statute by the Oyster River School Board)

59. The allegations contained in paragraphs 1 through 58 are hereby fully realleged and incorporated.

60. Despite Taylor's acknowledged requests pursuant to RSA 91-A, the Board has continued to ignore his requests or raise any defense to Taylor's requests under RSA 91-A. The Board has repeatedly, knowingly and in a disturbing pattern failed to respond to Taylor's rightful request for information under RSA 91-A.

61. Due to the Board's failure to honor its obligations under RSA 91-A, Taylor's rights have been violated and he has been deprived the access to information and government guaranteed by RSA 91-A. By these actions, the

Board has acted in a manner which circumvents the spirit and purpose of RSA 91-A and have violated RSA 91-A. See RSA 91-A:2, III (d).

62. The damages are within the jurisdictional limits of this Court.

COUNT II

N.H. CONSTITUTION

(Violation of Part 1, Article 8 by the Oyster River School Board)

63. The allegations contained in paragraphs 1 through 62 are hereby fully realleged and incorporated.

64. Part 1, Article 8, of the New Hampshire Constitution provides that all power derives from the People and that public bodies are at all times accountable to the People. This Constitutional grant ensures that the People's right of access to governmental proceedings and records is not unreasonably restricted. This grant guarantees that government is open, accessible, accountable and responsive.

65. Despite Taylor's acknowledged requests pursuant to RSA 91-A, the Board has continued to ignore his requests or raise any defense to Taylor's requests under RSA 91-A. The Board has repeatedly, knowingly and in a disturbing pattern failed to respond to Taylor's rightful request for information under RSA 91-A.

66. This failure of the Board to honor its obligations under RSA 91-A, violates Taylor's constitutionally guaranteed rights and he has been deprived the due process of law by access to information and government guaranteed by the New Hampshire Constitution.

67. The damages are within the jurisdictional limits of this Court.

COUNT III

RSA 91-A

(Violation of the Right to Know statute by Brackett)

68. The allegations contained in paragraphs 1 through 67 are hereby fully realleged and incorporated.

69. Despite Taylor's acknowledged requests pursuant to RSA 91-A, Brackett has continued to ignore his requests or raise any defense to Taylor's requests under RSA 91-A. Brackett has repeatedly, knowingly and in a disturbing pattern failed to respond to Taylor's rightful request for information under RSA 91-A.

70. Due to Brackett's failure to honor its obligations under RSA 91-A, Taylor's rights have been violated and he has been deprived the access to information and government guaranteed by RSA 91-A. By these actions, the Board has acted in a manner which circumvents the spirit and purpose of RSA 91-A and have violated RSA 91-A. See RSA 91-A:2, III (d).

71. The damages are within the jurisdictional limits of this Court.

COUNT II

N.H. CONSTITUTION

(Violation of Part 1, Article 8 by Brackett)

72. The allegations contained in paragraphs 1 through 71 are hereby fully realleged and incorporated.

73. Part 1, Article 8, of the New Hampshire Constitution provides that all power derives from the People and that public bodies are at all times accountable to the People. This Constitutional grant ensures that the People's right of access to governmental proceedings and records is not unreasonably restricted. This grant guarantees that government is open, accessible, accountable and responsive.

74. Despite Taylor's acknowledged requests pursuant to RSA 91-A, Brackett has continued to ignore his requests or raise any defense to Taylor's requests under RSA 91-A. Brackett has repeatedly, knowingly and in a disturbing pattern failed to respond to Taylor's rightful request for information under RSA 91-A.

75. This failure of Brackett to honor its obligations under RSA 91-A, violates Taylor's constitutionally guaranteed rights and he has been deprived the due process of law by access to information and government guaranteed by the New Hampshire Constitution.

76. The damages are within the jurisdictional limits of this Court.

WHEREFORE, Taylor requests that this Court:

- A. Compel the Board and Brackett to comply with Chapter 91-A and produce the requested information within forthwith;
- B. Enjoin future violations of Chapter 91-A by the Board and Brackett in accordance with RSA 91-A:8 III, by issuing an order compelling the Board to comply with RSA 91-A request by Taylor within the mandates of that law;
- C. Award Taylor his costs and attorneys' fees made necessary by the bringing of this action as allowed by RSA 91-A:8, I;
- D. Declare such other relief as may be just and equitable.

Respectfully submitted,

Dated: 28 Sept. 2011



David K. Taylor