

STATE OF NEW HAMPSHIRE

STRAFFORD COUNTY, SS

SUPERIOR COURT

Docket No. 219-2011-CV-00349

David K. Taylor

v.

The Oyster River Cooperative School Board and Henry Brackett, Chairman

**REQUESTS FOR FINDINGS OF FACT AND RULINGS OF LAW**

NOW COME the respondents, the Oyster River Cooperative School Board, and Henry Brackett, by their attorneys, Wiggin & Nourie, P.A., and submit the following Request for Findings of Fact and Rulings of Law.

1. ““Governmental records” means any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in the furtherance of its official function. Without limiting the foregoing, the term “governmental records” includes any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside meeting of the body. The term “governmental records” shall also include the term “public records.”” RSA 91-A:1-a.

2. The definition of “meeting” pursuant to RSA 91-A shall not include consultation with legal counsel. RSA 91-A:2.

3. Because consultations with legal counsel do not constitute meetings, notice or meeting minute requirements of RSA 91-A are inapplicable.

4. [N]otes or other materials made for personal use that do not have an official purpose, including but not limited to, notes and materials made prior to, during, or after governmental proceedings are exempt from the definition of governmental records. RSA 91-A:5 VIII.

5. “[A] “meeting” means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define “quorum” as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power.” RSA 91-A:2 I.

6. The Oyster River School Board is a seven member board.

7. Emails by and among School Board members for purposes of arranging non-meetings for consultation with counsel are not governmental records.

8. Emails by and among Oyster River School Board members for the purpose of arranging non-meetings for consultation with counsel do not fall within the provisions of RSA 91-A in any way.

9. The mandates of RSA 91-A:1 do not require a public agency to compile, cross reference, or assemble information into a form in which it is not already kept or reported by that body or agency. RSA 91-A:4 VII.

10. Meetings among a subgroup of a public body or agency are not violative of RSA 91-A:4 if no decisions are made. Webster v. Town of Candia, 146 N.H. 430, 444 (2001).

11. The ad hoc work sessions conducted by subgroups of the Oyster River School Board pertaining to the interim search process did not violate RSA 91-A.

12. Emails among Board members not used to circumvent the spirit and purpose of RSA 91-A are allowable. 91-A:2-a, II.

13. The hiring of persons as public employees may be considered and/or acted upon in non-public session. RSA 91-A:3, II.

Respectfully submitted,

The Oyster River Cooperative School  
Board and Henry Brackett, Chairman  
By Their Attorneys,  
WIGGIN & NOURIE, P.A.

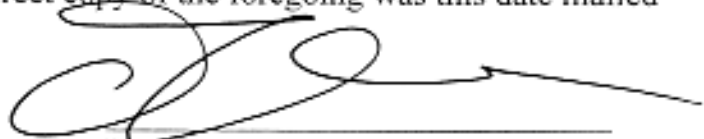
  
By: \_\_\_\_\_

Dennis T. Ducharme, Esquire  
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Bar No. 683

Dated: November 14, 2011

**Certification**

I hereby certify that a true and correct copy of the foregoing was this date mailed to David K. Taylor.

A handwritten signature in black ink, appearing to read "Dennis T. Ducharme", written over a horizontal line.

Dennis T. Ducharme, Esquire

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