

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

NO. 219-2011-CV-000349

DAVID K. TAYLOR

v.

THE OYSTER RIVER COOPERATIVE SCHOOL BOARD

and

HENRY BRACKETT, Chairman

MOTION TO RECONSIDER

NOW COMES David K. Taylor ("Taylor"), Petitioner in the above titled matter, and for reasons set forth below respectfully requests this Honorable Court to reconsider its decision of January 17, 2012.

**PRECEDENCE CLAUSE**

Respectfully, this Honorable Court erred in ruling that an agency's failure to follow its own policies that require a broader public access than RSA chapter 91-A does not constitute a violation of RSA chapter 91-A. As stated in the Notice of Decision dated January 11, 2012 in Taylor v. Oyster River 219-2012-CV-000001 "the general rule of construction [is] that lower bodies generally may establish more protective laws or policies; however, a violation of such policies constitutes a violation of that policy alone, not necessarily a violation of the higher governing-body's law as well." While this is

indeed the general rule of construction and applies to RSA chapter 91-A and ORCSD policy as the lower-body's rules, it does not consider the explicit provision of RSA 91-A: 2 II that provides "If the charter of any city or town or guidelines or rules of order of any public body require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter." Since the higher-body's rule in this very specific case expressly states that the lower-body's rules "shall take precedence over the requirements of this chapter", it is the higher-body's rule that is extending its authority to include the lower-body's rules within the jurisdiction of that lower body.

In this case, Policy BE - School Board Meetings, requires a broader public access by requiring a longer notice period in certain cases, requiring the business, subject and actions to be indicated in the notice in certain cases, and requiring that no additional business shall be transacted in certain cases. These are all aspects covered by RSA chapter 91-A and these local policies require a broader public access, and therefore the precedence clause of RSA chapter 91-A makes violating them a violation of RSA chapter 91-A itself.

#### **COMMITTEE, SUBCOMMITTEE OR SUBORDINATE BODY**

Respectfully, this Honorable Court erred in not ruling that certain bodies constituted committees, subcommittees or subordinate bodies of the Board. When a subgroup to a public body is specifically charged by that body to conduct substantive business of that body, on its behalf, then that subgroup fits the definition of a committee, subcommittee or subordinate body. The public body's failure to issue this

charge formally or even at a posted meeting does not render the charge any less effective within the considerations of RSA chapter 91-A. Specifically, the body consisting of Turnbull and O'Quinn, if not also Brackett, charged with working on public relations and the body consisting of Brackett, Turnbull and Kach charged with searching for an interim superintendent were both charged by the Board and therefore are public bodies subject to the full requirements of RSA chapter 91-A.

### **ENJOIN FUTURE VIOLATIONS**

Respectfully, this Honorable Court erred in not enjoining the Board from further violations of RSA chapter 91-A. Given the scope both in terms of the various ways and number of times that the Board violated RSA chapter 91-A over an extended period of time, it is reasonable with just the facts of this case alone to enjoin the Board.

WHEREFORE, the Petitioner respectfully requests that this Honorable Court:

A.Reconsider its decision and find that the violations of Policy BE that require a broader public access than RSA chapter 91-A do indeed constitute violations of RSA chapter 91-A itself.

B. Reconsider its decision and find that the body consisting of Turnbull and O'Quinn, if not also Brackett, charged with working on public relations constitute a committee, subcommittee or subordinate body of the Board and therefore a public body under RSA 91-A.

C.Reconsider its decision and find that the body consisting of Brackett, Turnbull and Kach charged with searching for an interim superintendent constitute a

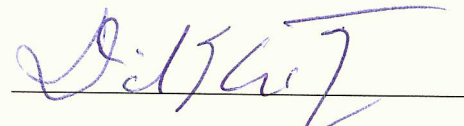
committee, subcommittee or subordinate body of the Board and therefore a public body under RSA 91-A.

D. Enjoin the Board from all future violations of RSA 91-A.

E. Declare such other relief as may be just and equitable.

Respectfully submitted,

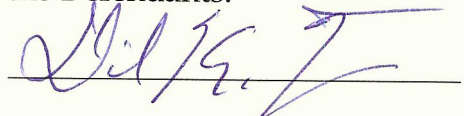
Dated: January 27, 2012



David K. Taylor, *pro se*

CERTIFICATION

I hereby certify that a true and correct copy of the foregoing was this date forwarded to Dennis Ducharme, Esquire, on behalf of the Defendants.



David K. Taylor, *pro se*