

STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

Docket No. 219-2012-CV-000001

David K. Taylor

v.

The Oyster River Cooperative School Board

ANSWER

NOW COMES the defendant, Oyster River Cooperative School Board, by its attorney, Dennis T. Ducharme, and submits the following Answer to Petition For Injunctive Relief:

- 1) Paragraph 1 does not set forth allegations of fact and therefore does not require an answer.
- 2) Paragraph 2 does not set forth allegations of facts and therefore does not require an answer.
- 3) Admitted.
- 4) Admitted.
- 5) Admitted.
- 6) Admitted.
- 7) Admitted.

- 8) Admitted.
- 9) Denied.
- 10) Admitted.
- 11) Admitted.
- 12) Admitted.
- 13) Admitted.
- 14) Admitted.
- 15) Denied.
- 16) Admitted.
- 17) Admitted.
- 18) Denied.
- 19) Denied.
- 20) Denied.
- 21) Denied.
- 22) Admitted.
- 23) Admitted.
- 24) Admitted.
- 25) Denied.
- 26) Admitted.
- 27) Denied.
- 28) Admitted.
- 29) Denied.

- 30) Denied
- 31) Admitted.
- 32) Admitted.
- 33) Admitted.
- 34) Admitted.
- 35) Admitted.
- 36) Denied.
- 37) Admitted.
- 38) Admitted.
- 39) Admitted.
- 40) Admitted.
- 41) Denied.
- 42) Admitted.
- 43) Admitted.
- 44) Denied.
- 45) Admitted.
- 46) Admitted.
- 47) Admitted.
- 48) Admitted that the steps described were taken. Denied that the process constituted a secret ballot.
- 49) Admitted that the nomination and vote occurred. Denied that those steps followed a secret ballot.

50) Admitted.

51) Admitted.

52) Admitted.

53) Admitted.

54) Admitted.

55) Admitted.

56) Admitted.

57) Admitted.

By way of further answer, the Respondent Board states as follows:

- 1) The Board's practice of posting a notice and agenda for meetings to occur satisfies the posting requirements of RSA 91-A.
- 2) RSA 91-A does not require that actions taken at a meeting perfectly track the agenda items posted in a notice and or agenda.
- 3) The actions taken by the Board at the meetings at issue were substantially consistent with the posted notices and agendas, and the board did not knowingly violate RSA 91-A by taking actions outside the notices and agendas.
- 4) Contrary to the implication of the Petition, Board action did occur between the November 30, 2011 meeting referenced in paragraphs 37-40 and the December 21, 2011 meeting referenced in paragraph 43.
- 5) The Board held a duly posted public meeting on December 5, 2011 at which a procedure for selecting the public members of the screening committee was discussed, and approved by motion.

- 6) The procedure approved at that meeting called for the Board members to review the letters of interest, discuss the qualifications of those showing interest, designate the candidate they preferred, after which a blind draw from those designated would occur.
- 7) In a December 13, 2011 memorandum, Interim Superintendent Leon Levesque Recommended a modified procedure to the Board, by which the discussion component of the process was removed. Six Board members followed the Superintendent's recommendation, and individually reviewed the letters of interest, after which they made a designation of their preferred candidate.
- 8) The Superintendent's recommendation, and the decision of six Board members to follow it was duly authorized under State Board of Education Regulation, Ed. 303.01(a) which allows the Board to delegate to the Superintendent the job of carrying out tasks pertaining to the recruitment of district employees.
- 9) The role of the Superintendent in refining the process discussed at the December 5, 2011 Board meeting was within his authority. Communication from the Superintendent to the Board in the form of a memorandum does not constitute a meeting of the Board.
- 10) The designation process followed did not constitute a secret ballot.
- 11) The actions of the Board members were taken in good faith, and based upon the advice of paid NESDEC consultants and the Interim Superintendent.
- 12) RSA 91-A:8, II gives the Court the authority to invalidate an action of a public body but such a decision is based on the Court's application of its discretion to

all the circumstances at issue. The circumstances at issue in this case, including the Board's good faith reliance on paid professionals, militates against invalidation.

Respectfully submitted,

The Oyster River Cooperative School
Board

By Its Attorneys,
DUCHARME RESOLUTIONS, PLLC

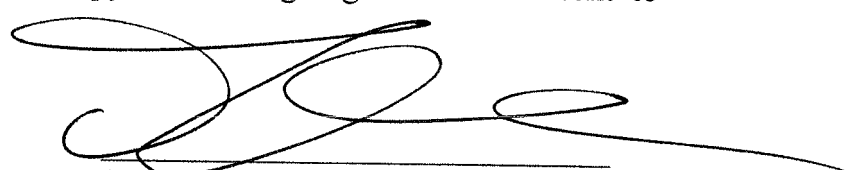
Dated: February 6, 2012

By: 

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Certification

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


Dennis T. Ducharme, Esquire