

STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

Docket No. 219-2012-CV-000001

David K. Taylor

v.

The Oyster River Cooperative School Board

**RESPONSE TO PETITIONER'S OBJECTION TO MOTION REQUESTING  
EXPEDITED RULING**

- 1) The Court is conversant with the procedural history and issues presented in this case.
- 2) The Court is now faced with the unique situation wherein a Petitioner who sought injunctive relief under RSA 91-A, a proceeding calling for priority status on the Court's calendar under RSA 91-A:7, and did so by requesting an ex parte temporary injunction, now asks the Court to act other than in an expeditious manner.
- 3) Petitioner's objection makes crystal clear that while this matter was filed as a right to know action, Petitioner's ultimate goal is to attack and criticize the *substance* of the screening and selection process at issue, with the goal of derailing it for as long as possible.
- 4) The bulk of Petitioner's objection speaks not to alleged violations of RSA 91-A but rather to his perceptions of how a process "should" be conducted and why he

is of the mind that the process followed by the screening committee and the Board after the committee finished its work was “wrong.” (See generally paragraphs 6 and 8-10 of Petitioner’s objection)

- 5) It is not this Court’s role to weigh arguments from a disgruntled ex-Board member about what is the “better” or “best” process to choose a superintendent, but that is in essence what Petitioner’s objection asks the Court to do. The objection is a direct request to the Court to make judgments about substantive issues pertaining to the selection process when the only issues before the Court are whether a statutory violation occurred and what relief is warranted under RSA 91-A:8. If the Court were to set aside the process, which The Board continues to ask it not to do, nothing in RSA-91-A vests the Court with the authority to tell the Court *how* to select a superintendent going forward.
- 6) The Court should not lose sight of the fact that the fundamental attack on the Board’s actions in this matter is the manner in which it selected 2 out of 11 members of a screening committee. That was the central issue tried on February 2, 2012 and ripe for determination by the Court. The Petitioner’s unfounded assaults on how long the process took and how and whether references were checked are not relevant to that determination. His unsupported statements about how searches are typically conducted are not relevant to that determination. His personal editorial comments about the Board’s reputation and what is good for the community are not relevant to that determination. His speculation about the depth of the candidate pool is not relevant to that determination.

- 7) To the extent the Court is inclined to give any consideration to Petitioner's effort to link the merits of this right to know claim, or the relief it might grant, to a debate over the pace of the search process, the extent to which stakeholders in the community were involved, or any other substantive critique of how the screening committee or Board did their work, his arguments should fail. The affidavits of Jocelyn O'Quinn, Arthur Bettencourt and Dennis Harrington (attached as exhibits A, B and C) answer Petitioner's substantive criticisms of the process.
- 8) This Court has what it needs to make the decisions it needs to make and grant the relief it deems fit. But that relief should not be based on the broad assault Petitioner offers in his objection. Nor should the relief go beyond what RSA 91-A allows. The Court's order should simply state whether a violation occurred and then address whether the Board must begin anew. It should not offer a "roadmap" of the type requested by Petitioner, initially in both his Requests For Findings and Rulings and Pretrial Memorandum, and now again in his objection to the motion requesting an expeditious ruling from the Court..

Respectfully submitted,

The Oyster River Cooperative School  
Board

By Its Attorneys,  
DUCHARME RESOLUTIONS, PLLC

Dated: February 10, 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.

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Dennis T. Ducharme, Esquire