

Board of Education and Superintendent of Schools,

I would like to address concerns in regards to the most recent Board of Education special meeting that was held on 7/01/2021.

I am requesting the board adopt a code of ethics for the guidance of its officers and employees that sets forth the standards of conduct reasonably expected of them (Gen. Mun. Law § 806), and that this be distributed to every district officer and employee.

This does not seem like a healthy board that intends to work collaboratively with its superintendent or employees. It seems as if individually they would like to govern over the district. This is unacceptable. This will set a new precedent that could have severe ramifications for our districts future. We are surrounded by districts with governing boards that do not reflect the wants and needs of the students within their district. It seems as if we have a rogue board and if permitted to happen now it will be allowed to happen again because of these actions.

There are rules and regulations set in place for a reason, they should be adhered to. State guidelines are set to have functioning school boards. What played out on the 1st of July is an activity that could have devastating effects.

MEETING DIALOGUE

It was pointed out by Mr. Castricone at the onset of the meeting that there were no other sitting officers present. He went on to state that he was going to call the meeting to order and ask for a motion to appoint a temporary chair. Mr. Rickard then requested to know why the meeting was called, who called the meeting, and how they got to that point and that it was advised by counsel not to do a reorganization meeting and why this couldn't wait until the 15th. Mr. Castricone deflected and just kept repeating that a meeting was going to happen and a motion needed to be made for a temporary chair. With some more back and forth, Mrs. Cerezo Scully made a motion. It was actually quite confusing because at first she appointed Matt but then was fed the motion by Mr. Castricone "I think you should probably appoint me because I am the one here". Mr. Rickard reiterated that Mr. Castricone requested "could you appoint me as the chairman". It was seconded by a new member of the board. 5 of the 6 members present were in favor with Mr. Rickard opposed. Mr. Rickard went on to state "the attorney said no meeting". Mr. Castricone countered "that's not what the attorney said". The motion passed and the meeting began.

Mr. Castricone then made a motion to appoint Matthew Takeuchi as temporary district clerk for the purposes of recording minutes for the meeting. Mr. Rickard asked if Matt was recording the meeting. Matt replied "I'm taking minutes". Matt went on to state that he didn't have recording capability. Mr. Rickard stated that it was normal to have the meetings recorded. The motion was seconded by a new member of the board. The motion passed.

Mr. Castricone made a motion to authorize the district to compensate Matt with the sum of \$100. for serving as district clerk for the meeting. The motion passed.

A new member of the board asked if anyone had heard from Dorothy. "Like is she stuck in traffic". Mr. Rickard stated that she had a prior engagement. He went on to say "Dan agreed that our meeting was on January 8th, I mean June 8th". Mrs. Cerezo Scully said "July". The new member went on to ask "has anyone had conversations with Dorothy that she indicated that she is on the way and that we should be waiting for her". No one seemed to have an answer.

Mr. Castricone: "1.5 is approval of the agenda, before we approve the agenda I'd like to remove 2.1 election of board officers we received an email today at around 6 o'clock finally from our attorney stating that we were not permitted to do that at this meeting and I don't want to run completely afoul with what the attorney said, um can I get a second to remove that?"

A new member moved to adopt the agenda as amended and it was seconded by Mrs. Cerezo Scully. Mr. Rickard stated that he agreed with the matter on 2.1.

Mr. Castricone: "So uh to Joe's point let me pass this around. (sounds of paper being passed can be heard). The reason why I wanted to have this meeting tonight, um, are several reasons. I want to go into executive session to discuss the employment history of a particular person and situation. I also, um,"

Mr. Rickard: "Excuse me, the employment history of a particular person."

Mr. Castricone: "Ah huh"

Mr. Rickard: "This is the first I am hearing of this."

Mr. Castricone: "Well Joe we put it in the email that you received."

Mr. Rickard: "Yeah, and I don't know who the person is."

Mr. Castricone: "We won't talk about it until we get into executive session."

Mr. Rickard: "You're just bringing this up. Mr. superintendent, are you aware of this? The employment history of somebody?"

Mr. White: (could not make out clearly the response)

Mr. Rickard: "Has somebody discussed with our new superintendent who we are paying a lot of money to this individual that you want to discuss their employment history."

Mr. Castricone: "No."

Mr. Rickard: "How do we put an agenda together without talking to the superintendent?"

Mr. Castricone: "When we go into executive session I'll tell you."

Mr. Rickard: "Well the superintendent works and builds the agenda with the board."

Mr. Castricone: "Well Joe vote no if you like."

Mr. Rickard: "Does this have anything to do with the board member where a resolution that we had to remove a board member?"

Mr. Castricone: "No, absolutely not."

Mr. Rickard: "So who created this agenda?"

Mr. Castricone: "I did."

Mr. Rickard: "By yourself? You didn't talk to the other three people here?"

Mr. Castricone: "I typed it all on my own."

Mr. Rickard: "Did you talk to any of the other board members?"

Mr. Castricone: "Joe"

Mr. White: "Just for the record, I have nothing to do with this, it's the first I've seen it."

Mr. Rickard: "You're an individual board member who has decided to not talk to the superintendent."

Mr. Castricone: "As is my right in school law to call a meeting and if four people show up it's a meeting. That's my right as a board member, I'm exercising it, we're gonna go forward, vote no, don't come into executive session, do as you like."

Mr. Rickard: "So tomorrow's title line 'Dan Castricone calls a meeting to do a reorganization, then says, oh by the way, we can't do it because our attorney said no', has us come in here to talk about a personnel issue that hasn't talked to the person that he reports to, unless we are talking about him. So you're in here talking, that's not the role of the board Dan."

Mr. Castricone: "It is the role of the board."

Mr. Rickard: "No, these people don't report to us Dan, they report to the superintendent, you all have jobs, do you let somebody talk to one of your employees?"

Mr. Castricone: "Joe, when we go in and we bring it up."

Mr. Rickard: "Do you? You would let somebody talk to your employee without you being there?"

Mr. Castricone: "When we go in and it comes up, express everything you want, and when we come back out and you feel the same way, tell everybody you were right."

Mr. Rickard: "This is a total disgrace folks, this is not right, if you are an employee . . ."

Mr. Heavner: "Joe your out of order Joe. You're out of order, we have a motion on the floor."

Mr. Rickard: "No, we're in discussion Gary, it's not right."

Mr. Heavner: "We have an agenda, we have to follow it. We have to follow the agenda."

Mr. Rickard: "We are going to follow the agenda, we're talking about going to executive session, and I am saying I want that struck."

Mr. Heavner: "So are we done with the approval of the agenda?"

Mr. Rickard: "No we are not done. We are on this item."

Mr. Heavner: "OK."

Mr. Rickard: "This is a disgrace, it's an embarrassment Dan, you should know better, and that you guys would go along with someone about some employee, I don't know who the

employee is, is going to be discussed without benefit of their boss, you know what I
(too much noise, can't make out what was said)

Mr. Castricone: "You know."

Mr. Rickard: "I don't know."

Mr. Castricone: "You don't know? Um, I'd also like to talk about the creation of the digital
technology committee and the creation of a recruitment and hiring committee."

Mr. Rickard: "These get done, this gets done at board reorg meeting, we have many
committees, we have to bond with different people, we have to appoint people,
there's a whole structure, there is about twenty things that we have to do, you pick
out two. This is bait and switch. Again, have you discussed this with

Mr. Castricone: "Can we, I'd like to make a motion to go into executive session to discuss the
employment history of a particular person

Mrs. Cerezo Scully: "Motion to go into executive session."

Mr. Castricone: "Is there a second? All those in favor?"

Mrs. Cerezo Scully: "Aye"

Mr. Castricone: "Anyone opposed?"

Mr. Rickard: "Yeah, I oppose."

Mr. Castricone: "OK, you're one opposed. It's possible that we may take action when we come
out."

"I need a motion to return from executive session."

Male voice: "So moved."

Male voice: "Second."

Mr. Castricone: "All in favor?"

"I'd like to make a motion that the new superintendent and the new board
members be read a certain report by our attorneys along with the findings of
said report so that they can get a better idea of the lay of the land of the district

in which they are embarking. Do I have a second?"

Mrs. Cerezo Scully: "Second."

Mr. Castricone: "All those in favor? (all ayes) The motion was that the new superintendent and the board members elect all be read a certain report and the findings there of so that they can get a better understanding of the district in which their embarking. Or something to that effect."

Mrs. Cerezo Scully: "Just make sure you include by the lawyer."

Mr. Castricone: "Yeah, by the attorneys. So Jeff, you'll have that, you'll call the lawyers, set up a meeting when you guys can all be there and have that read to you. Um, Gary, I believe that you have a motion."

Mr. Heavner: "Yes, um, notwithstanding the board currently exists, I would like to make a motion that going forward immediately that all members of the board and the superintendent are free to speak to any group or parties that they feel would help in the fulfillment of their duties including but not limited to, um, administration, staff, support, consultants, attorneys, and anybody who else they think we need to speak about any issues."

Mr. Givens: "I second that."

Mr. Castricone: "Discussion. All those in favor?" (many ayes) I believe that completes our work, I know it was short, I know you all weren't happy about it, but I really appreciate you coming and I think that we accomplished a lot here. Thank you. Motion to adjourn."

Mrs. Cerezo Scully: "Motion."

Mr. Rickard: "Second."

Specific points of concern

- 1: NYSSBA, the New York State School Boards Association, states in their School Board Member Handbook, 3:11: The superintendent is the key person at all school board meetings. The superintendent and president plan the meeting agenda together, but the superintendent makes

certain the meeting room is set up as required and all tools that are needed are available, such as audio or visual recording equipment, easel, overhead projector, microphone, etc. Each item on the agenda is introduced by the president; however, for discussion or action items, the superintendent or a designee is often asked to explain the issue. The superintendent's opinion or recommendation should be solicited before a vote is taken.

NYSSBA School Board Member Handbook, 3:13: The superintendent and the board president are responsible for setting the agenda according to the boards' policies. In some districts, the vice president also participates in the pre-agenda meeting.

It is clear that the superintendent did not participate in preparing the agenda. Mr. White stated: "Just for the record, I have nothing to do with this, it's the first I've seen it."

It is clear that the current president did not participate in preparing the agenda as Mr. Rickard asked who created the agenda, Mr. Castricone responded: "I did." "I typed it all on my own."

- 2: NYSSBA School Board Member Handbook, 5:1: Consider the superintendent the chief executive officer of the school district who reports to the board of directors – the school board. The superintendent is the only employee who is employed directly by the board. All other administrators, teachers and staff are hired by the superintendent, pending board approval. While the school board is responsible for setting the vision and goals for the district, it is the superintendent who implements the policies to attain the goals the board sets. The school board tells the superintendent what it wants done; the superintendent determines the best way to do it. The superintendent is also the board's principal advisor – identifying operational needs and recommending policies for board action.

NYSSBA School Board Member Handbook, 1:7: The school board is the district's board of directors and is responsible for establishing goals, setting policy and overseeing resources for the school district. The superintendent – the district's chief executive officer – works for the school board and is the person who translates the policy into action. Consistent with the goals established by the school board, the superintendent and staff make the day-to-day decisions that affect the operation of the school district, deploying resources, assigning staff and documenting results.

NYSSBA article: https://www.nyssba.org/clientuploads/nyssba_pdf/Events/nsbma-buffalo-07152016/7%20Signs%20of%20Effective%20School%20Board%20Members.pdf

3: Effective board members refrain from trying to perform management functions that are the responsibility of the superintendent and staff. As a board member, it is your responsibility (along with your fellow board members) to ensure that the schools operate well. But it is not your responsibility to run them. That's what the superintendent is for.

Boards do have great power, but it can seem a strange kind of power to new members because it's not the power to order individuals to "do this" or "stop doing that." It's the power to establish goals and policies, and then the power to demand accountability for reaching those goals and executing those policies.

The fundamental reason to refrain from trying to perform management functions is so you can hold the system -- and above all, its leader, the superintendent -- accountable for results. Accountability is the key, and many recent educational reforms aim to clarify and strengthen accountability.

Tuxedo UFSD policy #7104: Members of the Board of Education have legal authority for the conduct of the School District only when acting as a body in a properly convened meeting. Individual Board members have no authority over school affairs unless such authority has been delegated by the Board to the individual board member. Unless authorized by the Board, no individual will speak for, or in the name of the Board of Education.

Board members individually will refer compliments, suggestions and criticism about operational matters directly to the Superintendent of Schools for appropriate consideration and action. Comments affecting policy will be routed through regular channels as established by the Board.

NYSSBA School Law 37th Edition, 10:1: A superintendent of schools is the chief executive officer of a school district (§§ 1711(2)(a), 2508(1), 2566(1)).

NYSSBA School Law 37th Edition, 10:10: • To have supervision and direction of associate, assistant, and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, attendance officers, janitors, and other persons employed in the management of the schools or the other educational activities of the district authorized by [the Education Law] and under the direction and management of the school board; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to the board for its consideration and actions; to report to the board violations of regulations and cases of insubordination, and to suspend and associate assistant, or other superintendent, director, supervisor, expert, principal, teacher, or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to the board for its consideration and action.

Mr. White, the new superintendent was not even consulted on the topic or concerns of an individual's employment history before the meeting. It would appear as if the board is usurping the role, micromanaging, and stripping the duties of superintendent.

Mr. Heavner made a motion which was passed: "Yes, um, notwithstanding the board currently exists, I would like to make a motion that going forward immediately that all members of the board and the superintendent are free to speak to any group or parties that they feel would help in the fulfillment of their duties including but not limited to, um, administration, staff, support, consultants, attorneys, and anybody who else they think we need to speak about any issues."

This motion does not correspond with the role of the board vs. superintendent. This motion makes no mention of maintaining or upholding confidentiality and has no guidelines for its use. This will allow any board member to speak with any staff member or consultant as they see fit if they believe they are doing it in the best interest of the district. The lawyer should review this.

3: NYSSBA document: https://www.nyssba.org/clientuploads/nyssba_pdf/Events/nsbma-06152018/legal-issues-members-may-encounter-2018.pdf

Pg. 25: 1.The annual organizational/reorganizational meeting. a.This is the meeting where the board elects and appoints its officers (Educ. Law §§ 1701, 2502(9)(o))and committees for the coming year, and board members take or renew their oaths of office. (1)They also often appoint other personnel, such as the internal auditor, school attorney, records access officer, and records management officer, and designate depositories for district funds and newspapers for required notices. (2)In small city school districts, the board also must set the dates and times for its regular school board meetings and prescribe a method for calling special meetings of the board (Educ. Law § 2504(2)).b.The date when the annual organizational/reorganizational meeting is held depends on the type of district. (1)In union free and central school districts, the reorganizational meeting must be held on the first Tuesday in July. If that day is a legal holiday, then the meeting must be held on the first Wednesday in July (§1707(1)). Alternatively, a school board in these districts may, by resolution, decide to hold the annual reorganizational meeting at any time during the first 15 days in July (§1707(2)).

Pg. 26: Special or emergency meetings: These meetings are not regularly scheduled. They usually are held to conduct business that cannot wait until the next regularly scheduled meeting.

NYSSBA School Law 37th Edition, 14:7: Care should be taken, however, to see that the special board meeting does not usurp the place of regularly scheduled board meetings for the

consideration of regular school district business.

On the agenda for 7/01/2021 there was no need for Items of Discussion as this all happens at the reorganizational meeting. Approval of this agenda, even with amendment should have never been made.

This meeting was not an emergency or special, all items could have been addressed at the scheduled reorg meeting. This meeting was called by Mr. Castricone without the president or vice president present or approval, the superintendent didn't see the agenda until the meeting, and Mr. Castricone basically appointed himself as chair "I think you should probably appoint me because I am the one here."

- 4: Tuxedo UFSD policy #1406: Legal questions may be presented to the school attorney by board leadership or by an individual board member with the permission of the board president, vice-president or superintendent of schools. If an inquiry involves the performance by a board member regarding his or her fiduciary duties, such inquiry shall be made to through the protocol set forth above and, if consent is not given, the contact with the school attorney may then be made without such consent.

All legal opinions given by the school attorney pursuant to this protocol shall be shared, in writing, with the whole board and superintendent of schools, unless the matter involves the superintendent's employment with the District or a claim/litigation brought by an individual board member, in which event the response will not be shared with that board member.

Mr. Heavner made a motion which was passed: "Yes, um, notwithstanding the board currently exists, I would like to make a motion that going forward immediately that all members of the board and the superintendent are free to speak to any group or parties that they feel would help in the fulfillment of their duties including but not limited to, um, administration, staff, support, consultants, attorneys, and anybody who else they think we need to speak about any issues."

This would be a violation of policy #1406, if the policy is to be revised it must have 2 public readings before a vote. Policies are statements by the school board establishing standards and/or objectives to be attained by the district. Policies are the means by which a school board leads and governs its school district.

By allowing each member of the board to take matters into their own hands is stripping the power of the president. What if member A gives a directive to employee A, member

B gives and opposite directive to employee A, what does employee A do? How is employee A protected within their employ? This raises legal questions and can indeed create a great liability to the district.

The motion made by Gary Heavner makes no mention of maintaining or upholding confidentiality and has no guidelines for its use. This will allow any board member to speak with any staff member or consultant as they see fit if they believe they are doing it in the best interest of the district. The lawyer should review this.