

STATE OF NEW YORK
STATE EDUCATION DEPARTMENT

x

Appeal of D.Z. from proposed action of the
BOARD OF EDUCATION OF THE TUXEDO
UNION FREE DISTRICT

AFFIDAVIT IN OPPOSITION
TO STAY ORDER

x

STATE OF NEW YORK)
) ss:
COUNTY OF ORANGE)

DANIEL CASTRICONE, being duly sworn, subject to the penalty of perjury,
deposes and says:

1. I am the President of the Board of Education of the Tuxedo Union Free School District, the Respondent herein, having been elected to this office for a one-year term that commenced in July 2021. I have been a Board of Education member since July 1, 2020.
2. On September 24, 2021, I voted upon a motion made by Board Member Gary Heavner and seconded by Board Vice-President Lucy Cerezo Scully to convene proceedings against the Petitioner, Dorothy Ziegelbauer, pursuant to Education Law §1709(18) upon two charges of Official Misconduct. The Board vote was five "yes" and two "no", including the vote of the Petitioner.
3. The Petitioner seeks to stay the proceedings against her that commenced on October 15, 2021 and will continue on November 4, 2021, in part based upon a claim that I should not participate as a decision maker regarding the charges

against her, particularly regarding Charge II, because the transaction underlying Charge II involved statements allegedly made by me in executive session on July 28, 2021, which she characterized as being accusatory about her attempting to wrongfully secure an inaccurate grade for her child and that I had wrongfully revealed confidential student information. (See Verified Petition dated October 13, 2021 at ¶¶14-20)

4. What I said to the Board in executive session on July 8, 2021 regarding the student grading issue was merely to repeat what was brought to me by members of the faculty, as *whistleblowers*, who believed that there had been an attempt to compel a grade change inconsistent with District Policy. That is what was known at the time and the actual facts were not made clear until the Muenkel Report was issued to the Board on September 15, 2021.
5. I join Board Member Heavner in asking that the Commissioner conduct an *in camera* review of the Muenkel Report because it was not adopted as a final agency determination by the Board.
6. As I recall, having read the Muenkel Report in an executive session held on September 15, 2021, the Report contains a great deal of information about staff, faculty and School District officers, along with student personally identifiable information that warrants it being shielded from the public based upon the personal privacy interests.
7. Apart from being Board President, I am also an attorney admitted to the practice of law in New York State and I understand the gravitas of my vote to have the

charges against the Petitioner proceed to hearing. I will exercise my responsibilities as one of the decision makers in in a fair and judicious manner.

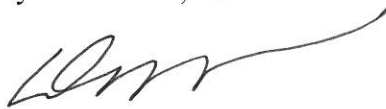
8. For the reasons stated above, the Commissioner should not issue a stay of the Education Law §1709(18) proceedings and should permit these proceedings against the Petitioner to continue.

Dated: Tuxedo, New York
October 17, 2021



DANIEL CASTRICONE

Sworn to before me this
17th day of October, 2021



Notary Public

David S. Shaw
Notary Public, State of New York
No. 02SH6170095
Qualified in Dutchess County
My Commission Expires 10/13/2019