

DEPARTMENT OF EDUCATION  
PO Box 500  
TRENTON, NJ 08625-0500  
WILLIAM L. LIBRERA  
Commissioner

July 20, 2005.

Ms. Sarah Holley, Board President  
Willingboro School District  
Country Club Administration Building  
440 Beverly-Rancocas Road  
Willingboro, NJ 08046-2847

Dear Ms. Holley:

SUBJECT: Willingboro School District - OCI Case #861

The Department of Education, Office of Compliance Investigation, has completed a review of Open Public Meeting Act violations, ethics and governance issues of the Willingboro School District. The review disclosed violations of N.J.S.A. 10 and N.J.S.A. 18A, as well as New Jersey Law Against Discrimination and Election disclosure laws. These violations are detailed in the attached Report of Examination. Please provide a copy of the report to each board member

Utilizing the process outlined in the attached "Procedures for LEA/Agency Audit Response, Corrective Action Plan and Appeal Process," the Willingboro School District is required to publicly review and discuss the findings in this report at the next regularly scheduled public board meeting and either develop a Corrective Action Plan, on the form provided, or file an appeal to the finding.

A certified copy of the board minutes recorded when this matter is under consideration must be sent to this office within 45 days of the date of this letter. Direct your response to my attention.

Should you have any questions, please contact me at (609) 984-5593.

Sincerely,

Ray Montgomery, Director  
Office. of Compliance Investigation

Attachment

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STATE OF NEW JERSEY  
DEPARTMENT OF EDUCATION  
OFFICE OF COMPLIANCE INVESTIGATION  
INVESTIGATIONS UNIT

WILLINGBORO SCHOOL DISTRICT  
ALLEGATIONS OF ETHICAL MISCONDUCT AND OPEN PUBLIC MEETINGS ACT  
VIOLATIONS

REPORT OF EXAMINATION  
JULY 2005

STATE OF NEW JERSEY  
DEPARTMENT OF EDUCATION  
OFFICE OF COMPLIANCE INVESTIGATION

REPORT OF EXAMINATION JULY 2005  
WILLINGBORO SCHOOL DISTRICT  
ALLEGATIONS OF ETHICAL MISCONDUCT AND OPEN PUBLIC MEETINGS ACT  
VIOLATIONS

EXECUTIVE SUMMARY

On May 23, 2005, the Office of Compliance Investigation (OCI) was notified by the School Ethics Commission of a possible Open Public Meetings Act Violation in the Willingboro School District. Subsequently, additional documents were received alleging ethics violations and racial discrimination, along with allegations of retribution to district staff by a board member. The complaints alleged:

- A meeting was held at the home of a board attorney attended by five board members, as well as another board attorney. The alleged purpose of the meeting was to facilitate renewal of the contract of the board attorney holding the meeting: There was no prior advertisement of this as a board meeting, yet a quorum of the board attended:
- A staff member was approached to give a campaign contribution to a board member in return for re-appointment. Another employee was also approached for a contribution. Both employees have apparently experienced retribution for their responses
- A staff member and another board member charged that the board President verbally attacked the staff member for recommending candidates of another race for positions. The employee claimed that she was retaliated against for making the recommendations.
- There was another allegation that proposed budget cuts given to the district by the township were in fact initiated by the board. The budget cuts and elimination of positions primarily affected those who had experienced problems with the board president.

The OCI investigator visited the district on June 17 and June 21 for an initial evaluation. While reviewing documents, it was noted that there were essentially no approved board minutes for the entire 2004-2005 school year. There were Board minutes that were typed and supposedly approved, but the minutes showing the approval do not exist.

The investigator was also informed that the school district is in jeopardy of having a deficit for the 2004-2005 school year. This was confirmed by staff and the auditors. The County Superintendent has been notified.

The OCI investigator also conducted extensive interviews with staff and board members, reviewed additional minutes and documents, listened to tapes of board minutes and reviewed legal bills. These activities substantiated most of the allegations.

The investigation identified multiple violations of N.J.S.A. 18A regarding board member ethics, the Open Public Meetings Act, board member interference in day to day operations of the district, racial discrimination and questionable behavior by the board attorneys. There are also violations of New Jersey

Law Against Discrimination and possible violations of N.J.S.A. 19, which relates to State Election Laws and Disclosures.

The remainder of this report contains a summary of events, findings, conclusions and recommendations.

## ALLEGATIONS AND FINDINGS

### **1) The Willingboro School District is in violation of N.J.S.A. 18A:17-20.3 and N.J.S.A. 18A:27-4.1 because the school board is attempting to make personnel and educational decisions without the recommendation of the superintendent.**

N.J.S.A. 18A:17-20.3(b) states "Any superintendent of schools who has not acquired tenure in the position of superintendent ... but who holds tenure during the term of his employment contract ... shall be the chief executive and administrative officer of the board or boards of education employing him-and shall have general supervision over all aspects, including the fiscal operations and instructional programs, of the schools of the district-or districts under rules and regulations prescribed by the state board . . . "

N.J.S.A. 18A:27-4.1 states "A Board of education shall appoint; transfer or remove a certificated or non-certificated officer or employee only upon the recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the Board. The Board shall not withhold its approval for arbitrary and capricious reasons."

The district has appealed budget cuts proposed by the township and the appeal is still pending. The township reduced the school budget by \$800,000: However, the original proposed reductions given to the school district were very specific. For example, the Assistant Superintendent for Curriculum and Instruction and her staff, including other support staff, were eliminated. Other staff members who had difficulties with the board president appeared on this list to have their positions or stipends eliminated or reduced. This type of specificity with regard to budget cuts is highly unusual. When questioned about this, the board president stated at the June 1, 2005 board meeting that it is her responsibility to share information with the township council. She claimed that board members were not given an opportunity to vote on the budget and were told that they could vote at a later date to recommend cuts, but were not given the opportunity. This rationale is an attempt to justify giving this information to the town council. However, that is inaccurate. Board members have to vote to approve the budget before it is put on the public ballot for vote.

With regard to personnel, the organizational chart shows the board secretary reporting only to the board of education. The board president signs time sheets for the assistant board secretary, which is highly irregular. The board secretary resigned and the assistant board secretary now fulfills the board secretary's roles. As a district employee, the board secretary and assistant board secretary should be under the jurisdiction of the superintendent.

In another instance, the board scheduled an interview for another staff member for an interim position without the input of the superintendent. These actions are not in compliance with state law and must cease.

### **2) The Willingboro Board of Education has violated the Open Public Meetings Act (OPMA) by holding board meetings or taking board action without adequate public notice.**

N.J.S.A. 10:4-7 states that it is "the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation and decision making of public bodies..."

The original complaint received by OCI concerned a private party on May 30, 2004, at the residence of one of the board attorneys. The other board attorney and five school board members. Were also at this event. At the time of the party, the attorney hosting this party had not yet had her contract renewed for the 2004-2005. However, after the party, on August 25, 2004, both attorney contracts were renewed.

Five board-members constitute a quorum for this nine member board and therefore, such a gathering should have been adequately advertised and open to the public. The presence of the board attorneys at this meeting is particularly troublesome, as they are supposed to advise the board members regarding compliance to statute.

On June 5, 2005, six members of the Willingboro Board of Education sent a letter to the superintendent of the district. This letter was derogatory and reprimanded the superintendent on several issues. The letter was also copied to the Commissioner of Education, the County. Superintendent, the Township Council, the School Ethics Commission and the Civil. Rights Commission. Six members of the board cannot initiate such action unless it is done at a board meeting. Board members only have authority when they act as a board. Six members of the board cannot act without the knowledge of the other board members and institute action such as issuing a letter of reprimand to a staff member without the benefit of a board meeting. These board members are acting outside the parameters of the board.

The Willingboro Board's lack of approved board minutes for the entire 2004-2005 school year also violates the OPMA. N.J.S.A. 10:4-14 requires public bodies to keep reasonably comprehensible minutes on the essentials of all meetings. New Jersey Superior Court has ruled in *Liebeskind. v. Mayor and Municipal Council Bayonne*, 265 N.J. Super. 389, 400-401 (App. Div. 1993) that minutes are intended to recite and disclose any official decision or action taken by a public body, and necessarily must contain sufficient facts and information to permit the public to understand and appraise the reasonableness of the public body's determination. There were a few Willingboro Board minutes that were typed and supposedly approved, but the minutes showing the approval do not exist. This practice deprives the public of disclosure of board action. As a result, there is no official record if members of the public wish to review board action taken at publicly advertising meetings.

**3) The board president of the Willingboro Board of Education has engaged in unethical conduct regarding hiring and work conditions involving family members. The board president also solicited campaign contributions from staff members. Favors were promised and retaliation was used against staff members who did not cooperate.**

N.J.S.A. 18A-12-24(b) states: "no school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others..."

N.J.S.A. 18A-12-24(c) states: "no school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might easily be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family."

N.J.S.A. 18A-42-24(e) states: "no school- official, or member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other-thing of value based upon an understanding that the gift,

favor, loan, contribution, service; promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties."

A staff member was approached to give a campaign contribution to the board president, Sarah Holley, when she was running for reappointment to the board. A promise of re-appointment to a stipend position was offered in return for re-appointment. The staff member, in fear of losing the position, had an attorney deliver a \$500 cash campaign contribution to the board president. The board president expressed displeasure that the cash was delivered by an attorney and contained a written note, which created a paper trail.

In response, the board president took action to eliminate a stipend that the employee had received for several years for performing additional duties. The stipend position appeared on the original list of cuts from the town council. This stipend is also part of the \$800,000 in budget reductions that is currently being appealed. In further acts of retaliation, the board president has blocked the employee's re-appointment for another stipend position that he has held for several years.

Another employee was also approached for a contribution. However, he did not comply with the request, and thereafter negotiations with the employee's bargaining unit were temporarily halted. These actions demonstrate a pattern of retaliatory behavior that is contrary to law.

Both of the staff members who were asked for contributions were also directed to hire the fiancé of the board president's daughter, who also works in the district. When the daughter's engagement was terminated, the staff members were directed to fire the former fiancé. They did not comply with this request; and as noted above, adverse action was taken against them.

The board president has used her position as a board member to gain favor for her daughter. The board president's daughter is employed by the Willingboro Board of Education as a teacher. Her supervisor attempted to transfer her from teaching 8th grade to 6th grade. The supervisor discussed the reassignment with the daughter, who expressed an interest in teaching the same grade as her friend who was teaching 7th grade. The supervisor agreed to the reassignment and said that the reassignment was for the good of the school and not because the teacher was the board president's daughter.

Subsequently, the supervisor was called into a meeting with the board president. The board president verbally berated the supervisor for mentioning that the teacher was board president's daughter. The board president raised her voice and was verbally abusive. She then informed the supervisor, as well as the Superintendent, that the daughter would go back to teaching 8th grade and the friend would also be assigned to the 8th grade.. The Superintendent did not recommend this reassignment. This conduct contravenes the school ethics law.

#### **4) The board president and others ma have violated the state election laws.**

The board president ran for re-election with two other candidates, Kelly Logan and Theresa Rita Owens. A query of the Election-Law Enforcement Commission showed no record of campaign contribution reporting by these board members for the previous election.

N.J.S.A.. 19:44A-16(e) states: "There shall be no obligation imposed upon a candidate seeking election to a public office of a school district to file either the reports required ... if the total amount expended and to be expended in behalf of his candidacy by the candidate Committee, any political committee, any continuing political committee, or a political party committee or by any person, does not in the aggregate exceed \$2,000 per election or \$4,000 for any joint candidates committee containing two candidates of \$6,000 for any joint candidates committee containing three or more candidates; provided that if such

candidate receives contributions from any one source aggregating more than \$300 he shall forthwith make a report of the same including the name and mailing address of the source, the aggregate total of contributions there from, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer, to the commission." (Emphasis supplied.)

N.J.S.A. 19:44A-11.8 states "Any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or other person or group required to report a contribution to the commission ... shall, in addition to the reporting requirements set forth in that act, unless specifically required in another provision of that act, file a report with the commission on any contribution accepted in currency, regardless of the amount of that contribution.

Failure to report the \$500 cash contribution violates these election statutes. Referral to the New Jersey Election Law Enforcement Commission is warranted.

**5) The board president of the Willingboro Board of Education has practiced racial discrimination in hiring practices. She has berated staff and practiced retaliation against staff for recommending white employees.**

The New Jersey Law Against Discrimination (LAD) prohibits employers from discriminating in any job-related action, including recruitment, interviewing, hiring, promotions, discharge, compensation and the terms, conditions and privileges of employment on the basis of any of the law's specified protected categories. N.J.S.A. 10:5-1 et seq.. These protected categories are: race, creed, color, national origin, nationality, ancestry, age, sex, marital status, domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information liability for military service; or mental or physical disability, including AIDS and HIV related illnesses. Ibid.

A staff member in a senior supervisory position recommended hiring white as well as African-American candidates for supervisory positions. This staff member was told by the board president that she was not allowed to recommend any white candidates. The board president verbally attacked and berated this staff member. This was done in front of another board member who not only confirmed the behavior, but asked for help from the board attorney, who did not take the accusations seriously. The staff member was verbally attacked by the board president on several occasions. This employee's position appeared on the original list of cuts received from the town council.

**6) The sexual harassment investigation is suspect due to conflict of interest of the parties initiating the action.**

The Willingboro School District received anonymous complaints regarding sexual harassment by board member Robert Smith. Upon receipt of the charges, Mr. Smith wrote to the board president and asked for an investigation. Rather than submit the allegations to the Affirmative Action Office, the two board attorneys selected an attorney to conduct the investigation and presented their choice to the Board. On April 25, 2005, the Board passed a resolution to hire the person selected by the attorneys, to handle the investigation. The name of the attorney/investigator was not given and the rate, which was \$175 per hour, was also omitted from the resolution. The attorney/investigator commenced an investigation and prepared a report.

Contrary to district policy, the Affirmative Action Officer of the district was not contacted to conduct this inquiry. The investigator's list of staff to interview appears to be selective. The investigation did not disclose that there were supervisors who did not support the allegations. There were female staff members who had regular contact with the accused board member who were not interviewed. In the course of the

interviews, several women told the investigator that the accused board member had created an uncomfortable working environment. However, two supervisors interviewed by OCI, but not by the investigator, stated that none of their staff had ever mentioned that they were uncomfortable around this board member. These supervisors said that they had never heard any complaints.

The timing of these allegations is suspect. Mr. Smith was not in favor of renewing the labor attorney's contract. Throughout the year, he had been a proponent of hiring new labor counsel. Mr. Smith told the OCI investigator that he encouraged the Board to interview other attorneys because he had problems with the labor attorney's performance. In addition, according to other board members interviewed, Mr. Smith was having, problems with Sarah Holley, board president. The OCI investigator was told by a board member that Sarah Holley was constantly pushing the attorney to investigate this board member and was anxious to find him guilty.

Regardless of whether the allegations of sexual harassment are valid, the process used to conduct the investigation is suspicious. The original complaints were anonymous; accordingly, it stands to reason that the list of people to interview would be broader. The fact that the district investigator limited the list appears to be designed to produce a particular result. In addition, it is not clear why the allegations were not handled by the district's Affirmative Action Officer.

The people initiating the investigation have something to gain by removing this board member, and therefore, the entire process appears tainted.

## **CONCLUSIONS**

The Willingboro Board of Education and particularly the board president are acting beyond the scope of their duties in violations of New Jersey statutes and code. The Board should not make personnel decisions without the Superintendent's recommendation. However, this Board habitually does so. The board also should not supervise staff. Such actions do not reflect proper training or adherence to state law.

In addition, the Board has numerous violations of the Open Public Meetings Act. It is particularly troubling that the Board attorneys do not appear to be providing helpful counsel regarding adherence to the law but are rather contributing to the Board's violations.

The Board President has committed serious ethics violations regarding campaign contributions and has used her position to help benefit her family. There may also be election law violations committed by the board president and her running mates.

The sexual harassment investigation sent to the School Ethics Commission is flawed and probably biased.

## **RECOMMENDATIONS**

The Board should seek board training in order to understand its role. The Board should operate in an advisory capacity and focus on ensuring that the school is well run, not running the school. Finally, the Board secretary should report to the superintendent and not directly to the Board, as she is an employee of the school.

The Board should operate as a board and should not take actions outside of an advertised board meeting. The board attorneys should help the board to adhere to the law and not to avoid it.

The board president's actions constitute violations of the School Ethics Act. She has overstepped her authority in many areas and has committed serious ethics violations. An ethics investigation should begin

immediately. The board president has also violated the Law Against Discrimination. Referral to the Division on Civil Rights is warranted.

Sarah Holley, Kelly Logan and Theresa Rita Owens will be referred to the New Jersey Election Law Enforcement Commission for violations of the election laws. Reporting contributions, especially cash contributions should be investigated.

The sexual harassment ethics complaint should be disregarded and another investigation should be conducted by the Affirmative Action Officer.

The Willingboro Board of Education is cautioned to refrain from taking actions which can be construed as retaliatory against board members. The Conscientious Employee Protection Act protects employees who provide information to any public body in the course of an investigation.

It is, further recommended that the County Superintendent of Schools review all board resolutions before they are considered approved to ensure that these practices have ended.

Submitted by:

Ray Montgomery, Director  
Office of Compliance Investigation

Auditors:  
Janet McNerney

DEPARTMENT OF EDUCATION  
PO Box 500  
TRENTON, NJ 08625-0500  
LUCILLE E. DAVY  
Acting Commissioner

October 17, 2005

Ms. Sarah Holley, Board President  
Willingboro School District  
Country Club Administration Building  
440 Beverly-Rancocas Road  
Willingboro, NJ 08046-2847

Dear Ms. Holley:

SUBJECT: Willingboro School District - OCI Case #881 Revised Report

The Department of Education, Office of Compliance Investigation, has completed its reinvestigation into allegations of Open Public Meetings Act violations, ethics and governance issues of the Willingboro School District. This second review disclosed that six board members improperly signed a memorandum to the superintendent and the Board has not approved minutes in a timely fashion. These potential violations of the Open Public Meetings Act are detailed in the attached Revised Report of Examination. This report replaces the previous report dated July 20, 2005. Please provide a copy of the report to each board member.

Utilizing the process outlined in the attached "Procedures for LEA/Agency Audit Response, Corrective Action Plan and Appeal Process," the Willingboro School District is required to publicly review and discuss the findings in this report at the next regularly scheduled public board meeting and either develop a Corrective Action Plan, on the form provided, or file an appeal to the finding.

A certified copy of the board minutes recorded when this matter is under consideration must be sent to this office within 45 days of the date of this letter. Direct your response to my attention. Should you have any questions, please contact me at (609) 984-5593.

Sincerely,

Ray Montgomery, Director  
Office of Compliance Investigation

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DEPARTMENT OF EDUCATION

OFFICE OF COMPLIANCE INVESTIGATION  
INVESTIGATIONS UNIT

WILLINGBORO SCHOOL DISTRICT  
ALLEGATIONS OF ETHICAL MISCONDUCT AND OPEN PUBLIC  
MEETINGS ACT VIOLATIONS

REVISED REPORT OF EXAMINATION  
OCTOBER 2005

STATE OF NEW JERSEY  
DEPARTMENT OF EDUCATION  
OFFICE OF COMPLIANCE INVESTIGATION  
REVISED REPORT OF EXAMINATION – OCTOBER 2005  
WILLINGBORO SCHOOL DISTRICT  
ALLEGATIONS OF ETHICAL MISCONDUCT AND OPEN PUBLIC  
MEETINGS ACT VIOLATIONS

EXECUTIVE SUMMARY

On July 20, 2005, the Office of Compliance Investigation (OCI) issued a Report of Examination regarding allegations of violations of the Open Public Meetings Act and governance issues of the Willingboro School District. The Report contained findings, conclusions and recommendations. After the report was released, the OCI received information that contradicted the findings in the report. Accordingly, the investigation was re-opened to examine the new information and determine whether an amended report was warranted.

The OCI Director and Manager of the Investigations Unit visited the district in August 2005. They reviewed numerous documents from the district and board members and conducted extensive interviews of the following 21 district employees and school board members:

- Douglas Austin
- Hosey Best
- Anthony Clemons
- Nancy France
- Jessie Green
- Ashanti Holley
- Sarah Holley
- Marvin Hopkins
- Joan Josephson
- Alonzo Kittrels
- Walter Keiss
- Teresa Ann Lucas
- Peg McDonnell
- Mary Morgan
- Kathryn Murray
- Theresa Owens
- Rocky Peterson
- Everline Reid-Smith
- Harry Rocco
- Alma Salter
- Robert Smith

In addition, the OCI investigators examined numerous board minutes and listened to tapes of the July 11th and 18th board meetings. Based upon these activities, the OCI determined that all of the allegations needed to be re-visited and that an amended report was warranted.

By way of background, the OCI initially received a complaint on June 10, 2005, alleging a potential violation of the Open Public Meetings Act by the Willingboro Board of Education (Board). Subsequently, additional documents were received from several different complainants alleging that school board

members had violated the School Ethics Act, engaged in racial discrimination and had retaliated against specific staff members. Specifically, these initial allegations were:

- A social gathering at the home of one of the board attorneys turned into an illegal meeting when five board members attended and discussed board business. There was no prior advertisement of this board meeting, yet a quorum of the board was present.
- Two district employees were approached to give a campaign contribution to a board member in return for favorable treatment. Both employees have experience retribution for refusing to contribute.
- A district employee and another board member assert that a board member verbally attacked the employee for not recommending enough African-Americans for positions. This employee also alleges that her employment status was adversely affected as a result of this verbal exchange.
- There was another allegation that proposed budget cuts given to the district by the Willingboro Town Council were initiated by the Board without the Superintendent's approval. The Board's proposed budget cuts primarily eliminated positions of those who had experienced problems with the current board president.

These allegations were the basis for the July 20, 2005 investigative report. As stated above based upon new information received after the initial report was issued, these issues were re-visited. The remainder of this report contains the allegations, findings, conclusions and recommendations from the subsequent investigation.

## ALLEGATIONS AND FINDINGS

### **1) The Willingboro Board of Education violated the Open Public Meetings Act by holding a board meeting and taking official action without adequate public notice.**

#### Private Party

For this allegation, OCI investigators interviewed five board members who attended the party and the board attorneys. The original written complaint received by the OCI on June 10, 2005, concerned a private party held on May 30, 2004, at the home of one of the board attorneys. The complaint alleged a violation of the Open Public Meetings Act because five school board members attended this event. The complainant further alleged that at the time of the party, the attorney hosting the event had not yet had her contract renewed for the 2004-05 school year. However, on August 25, 2004, both attorneys' contracts were renewed. The complainant's inferences were that the presence of five board members constituted a quorum necessitating public notice, and the purpose of the party was to garner favor with board members to maintain the contractual employment relationship.

The complainant was initially interviewed by the OCI investigator on July 7, 2005. During this interview, he told the OCI investigator that during the party a senior board member pulled him to the side and began to discuss board business. However, when interviewed in August 2005, by the OCI Director and Manager, the complainant stated that he asked why they were all gathered at the party, and one of the board attorneys expressly told him that they could not discuss board business, and the complainant left the party. The OCI Director questioned the complainant about his prior statement to the OCI investigator in July concerning the private conversation with the senior board member and the complainant responded that he could not recall whether that conversation occurred at the party or at another time.

OCI investigators asked the complainant why the complaint was submitted 13 months after the event occurred. The complainant responded that the complaint was submitted out of anger for past board actions against him.

In addition to the complainant, the OCI Director and Manager interviewed all of the board members and attorneys present at the May 30, 2004 party. The board attorney denied that the party was given for the purpose of renewing the employment contract. She stated that she has worked with this board for more than 10 years and has developed personal relationships with them and has invited them to her home before. Both attorneys stated that they believe the board members know that they are not permitted to discuss board business at social gatherings. Both attorneys also denied being part of any discussion or overhearing any discussion of board business at a social gathering. Indeed, each board member who attended the party was interviewed and confirmed this understanding.

The Open Public Meetings Act (OPMA), N.J.S.A. 10:4-7 provides that it is "the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation and decision making of public bodies . . ."

A social gathering attended by a quorum of the board does not, in and of itself, violate the OPMA. Moreover, in the absence of any evidence that official board business was discussed a violation does not appear to have occurred.

### Conclusion

The OPMA does not prohibit a quorum of a public body from attending social gatherings. In the present case, the complainant explicitly stated that the board attorney told him that the board members present could not discuss board business. As a result of that information, the complainant left. Also, the complainant could not confirm his earlier statement in July that another board member pulled him aside to discuss board business. Accordingly, this allegation of a violation of the OPMA cannot be substantiated, nor can the allegation against the board attorney for hosting a party to influence board members be substantiated.

### June 5, 2005 letter

For this allegation, the OCI investigators interviewed the Superintendent, eight board members, and the county superintendent. The Superintendent alleged that the Board violated the OPMA when six members issued a memorandum dated June 5, 2005 to him without discussion at a public board meeting. The board's memorandum was written in response to a memorandum from the Superintendent dated May 13, 2005 addressed to all Board members regarding the budget cuts submitted to the Town Council. In this correspondence, the Superintendent characterized the list of suggested cuts as a "hit list" developed with the active participation of someone within our ranks." He further states: "Look, I don't want to bring any embarrassment to this school district or to this fine township, but some of you are totally out of control." He concludes: "Besides giving me another chapter for my book, what is occurring with regard to the shenanigans related to these budgets cuts have made one thing crystal clear, 'I have seen the enemy and the enemy is us.'"

In response, the six Board members wrote to the Superintendent stating in part: "As your employer, we sincerely regret that you have elected to take the unprofessional stance in trying to intimate the Board and hinder us from performing our legal responsibilities to arrive at budget cuts due to the defeated budget and other serious financial shortcomings." The letter concludes:

"The Board of Education certainly does hold you accountable and has expectations for improving student achievement by utilizing the most capable employees. We expect the Assistant Supervisor for Curriculum and Instruction at the very least to be accountable to the Board of Education for the specific duties that each one of her staff performs and to justify each position. Be assured that the Board of Education is not looking for a 'hit list' as you allege; however we are looking for qualified and competent people to fill positions in a very difficult budget time and rather than assisting the Board to keep the most qualified staff, you resort to name calling. \* \* \*

Make some attempt to get back on track and perform your duties as the superintendent of schools. Try to work collaboratively with your employer, the Willingboro Board of Education."

The Superintendent alleged that these six Board members acted outside proper parameters and could only initiate such action at a public board meeting.

When questioned by OCI investigators during the August interviews, all of the six signers admitted that the letter was brought to their individual homes for review and signature. The Board members who elected not to sign the letter were given a similar opportunity. The current Board president admitted to being the author of the letter and the person who took the letter to the individual board members. The county superintendent told the OCI investigators that he previewed the letter prior to it being submitted to the individual board members for signatures.

### Recommendation

The June 5th letter penned by the board president and signed by a majority of the board was written in response to a memorandum from the Superintendent dated May 13, 2005. In this memo, the Superintendent questions the Board's motives in selecting the positions included on the list of suggested budget cuts submitted to the Willingboro Town Council. The deterioration in communication between the Board and the Superintendent may have contributed to the decisions to resort to this printed exchange. However, the Board president's process of getting signatures by going to each board member's house appears to violate the spirit of the OPMA. The tone of the letter suggests that it was written on behalf of the entire Board and in fact was signed by a majority of the Board. The letter also gives the superintendent direction on how to fulfill his job responsibilities. The OCI considers this to be tantamount to official board action that should be accomplished in accordance with the OPMA. The Board is cautioned to be more diligent in its compliance with the law.

### **2) The Willingboro Board of Education has violated the Open Public Meetings Act by not having minutes available to the public as required.**

In addition to the board members and the Superintendent, the OCI investigators also interviewed the assistant to the board secretary for this allegation. The Willingboro Board of Education tape records all of its public meetings. The assistant to the board secretary is responsible for tape recording the meetings. She told OCI that she listens to the tapes, summarizes them, and submits written summations to the Board for approval. It was initially alleged that none of the minutes for the 2004-05 school year had been approved. However, documents reveal that as of the August interviews, there are 17 meetings for which there are no minutes. The other minutes have been approved. The assistant to the board secretary told OCI investigators during the August interviews that she is unable to complete the transcription of the tapes in a timely fashion because she is frequently interrupted by board members requesting that she change the wording of minutes that are being submitted to the Board for approval because she has not accurately captured what they said during the meeting. Board members also request that she type the minutes or portions of the minutes verbatim.

N.J.S.A. 10:4-14 requires public bodies to keep reasonably comprehensible minutes on the essentials of all meetings. New Jersey Superior Court has provided guidance in *Liebeskind v. Mayor and Municipal Council of Bayonne*, 265 N.J. Super. 389 (App. Div. 1993) ruling that minutes are intended to recite and disclose any official decision or action taken by a public body, and necessarily must contain sufficient facts and information to permit the public to understand and appraise the reasonableness of the public body's determination. The minutes need not be a verbatim exposition of the meeting; however, it should not be a cryptic list of board actions.

It has been held that the failure to make minutes available by the next board meeting is a violation of the Open Public Meetings Act. *Matawan Educ. Assoc. v. Matawan-Aberdeen Bd. of Ed.*, 212 N.J. Super. 328 (Law Div. 1986).

### Conclusion

The failure of the Willingboro Board of Education to have minutes available by the next board meeting appears to have violated the holding in *Matawan*. Moreover, Board members are cautioned that pursuant to Robert's Rules of Order, minutes are properly corrected by motion during the public board meeting. See, Robert's Rules of Order, 9th Edition, p. 349-350; 463-464. Following this procedure will increase the likelihood that the minutes are available in a timely fashion.

### Recommendation

The Willingboro Board must ensure that minutes, even if unapproved, are available to the public by the next board meeting. Correcting board minutes should be done in accordance with Robert's Rules of Order.

### **3) The current board president has engaged in unethical conduct by soliciting campaign contributions from district employees and may have violated state election laws.**

OCI investigators interviewed Board members, the Superintendent, the Executive Director of Human Resources and Administration, the Assistant Superintendents, WEAA members, and district principals. The Executive Director of Human Resources and Administrative Services, who is also the Affirmative Action Officer and a principal, alleged in separate writings that the current board president asked them for campaign contributions during her most recent bid for re-election. Both employees alleged that they were retaliated against for refusing to give a financial contribution. At first blush, during the initial investigation, these allegations were deemed credible. However, further inquiry reveals that both are factually inaccurate.

### Campaign Contributions Allegations

The Executive Director of Human Resources and Administration submitted a written statement on June 3, 2004, and subsequently told the OCI investigator in July that he was approached by the current board president for a "sizable campaign contribution" to ensure his re-appointment to a stipend position. In his written statement, he asserts the following: he discussed the issue with the Superintendent and discovered that he, too, had been approached for a contribution. They had dinner with a friend who is an attorney and discussed the matter. He and the Superintendent both knew that it would be inappropriate for them to contribute to the board member's campaign, so the attorney friend volunteered to donate \$500.00 as a means to "introduce his name" to the Board for future legal opportunities. The money, including a note from the attorney, was placed in a sealed envelope and given to the board president's husband who delivered it to his wife, the board president. The Executive Director of Human Resources and Administration later received a telephone call from the current board member who was upset about the note. She was upset, according to this letter, because the note created a paper trail. The Executive Director

of Human Resources and Administration offered to take the money back but the current board president refused the offer.

The Executive Director of Human Resources and Administration further states in this letter that this solicitation is "nonphysical, health-impairing, psychological mistreatment" tantamount to bullying and has created a hostile work environment. He believed that his stipend position was placed on the "hit list" as a result of this incident.

Based upon this account, the July report concluded that the current board president solicited and accepted a financial campaign contribution in exchange for future employment opportunities with the Willingboro Board of Education, and did not report this contribution to the Election Law Enforcement Commission. The July report determined that this conduct appeared to violate the School Ethics Act, N.J.S.A. 18A:12-24e and the election laws, N.J.S.A. 19:44A-11.8 and 19:44A-16(e). The first report also included the current board president's running mates, Kelly Logan and Theresa Rita Owens, as violating the election laws for failing to report this contribution.

After the July report was issued, however, the OCI received copies of a letter from the current board president dated March 18, 2005, in which the \$500.00 contribution was returned, a postal money order in the amount of \$500.00, a signed return receipt card and the unsigned note allegedly from the attorney stating:

"The enclosed \$500.00 is my contribution towards your campaign to be re-elected to the Willingboro Board of Education. If any legal opportunities become available in the near future, please consider me.

Thanking you advance [sic]."

These documents squarely challenged the complainant's version of events. Accordingly, during the August interview, The Executive Director of Human Resources and Administration and the Superintendent were questioned vigorously about the July 20th version of the story. The Executive Director of Human Resources and Administration recanted and admitted that the money came in equal amounts from himself and the Superintendent, not from the attorney friend. The Executive Director of Human Resources and Administration also admitted to typing the unsigned note in front of the board president's husband and placing it in a sealed envelope. He also acknowledged that the money was returned. The Superintendent confirmed that he contributed half of the money and it was he who returned the money to the Executive Director of Human Resources and Administration. During the August and July interviews, both the Executive Director of Human Resources and Administration and the Superintendent maintained that the current board president solicited the campaign contribution and the attorney agreed to the use of his name in the note.

One of the current board president's running mates was also interviewed in August about the alleged campaign contribution made by the Executive Director of Human Resources and Superintendent. She told OCI investigators that she was not aware of the current board president soliciting any campaign contributions from staff members.

In the August interview with OCI investigators, the current board president, denied soliciting any campaign contributions from anyone on staff of the Willingboro Board of Education. She stated that her husband gave her the sealed envelope and when she opened it she was surprised to find \$500.00 in cash. She did not know the attorney who purportedly sent the money. She stated that she obtained a money order and returned the money with a note stating in part: "Although I appreciate your support, I must

return the money. I have always run my elections and have served under strict ethical guidelines. I believe that I would be compromising those beliefs if I accept your donation."

The current board president confirmed to OCI investigators in August that after she opened the envelope she called the Executive Director of Human Resources and Administration and asked him why he had given her \$500 from an attorney she did not know. She further asked him whether he was trying to create a paper trail to set her up. She told him that she was returning the money. In response, the Executive Director of Human Resources and Administration allegedly told her that she did not have to return the money because there was no proof that she had received it.

### WEAA Allegation

In the second instance, a member of the Willingboro Education Administrator's Association (WEAA), alleged that the current board president, who is also a member of the Board's WEAA negotiations committee, improperly asked for a campaign contribution. This complainant alleges that as a result of his refusal to contribute, negotiations stalled.

During the August interviews, the current board president was asked whether she had solicited campaign contributions from the WEAA. She admitted to asking the union for their support. However, she was seeking written support, which was given, not monetary support. She asserts that there is no risk of violating the School Ethics Act by requesting support from the union because she is precluded from voting on any education association contract because she is part of the same statewide general union.

The WEAA complainant told OCI investigators during the August interview that he was not sure why negotiations stalled; no one ever told him. He just assumed a causal connection. He submitted the complaint on official letterhead and on behalf of the WEAA. Other members of the leadership of this bargaining unit wrote a letter specifically denying any knowledge of a campaign solicitation. When questioned by OCI investigators in August, another WEAA official emphatically stated that he had not been personally approached for a campaign contribution nor did he have knowledge of the WEAA being solicited for a financial contribution.

Indeed, all other staff interviewed denied ever being approached for a campaign contribution by the current board president. In fact, the board president returned another unsolicited \$100.00 cash contribution that was surreptitiously given to her by a different member of the administrative staff.

### Conclusion

It cannot be substantiated that the current board president solicited a campaign contribution from the two district employees. Two district employees allege that she did. The current board president and her running mate insist that she did not solicit a campaign contribution from these two employee(s) or from anyone on the staff. All other employees interviewed in August stated that they have not been approached for a contribution. Absent more concrete evidence of the solicitation, this allegation cannot be substantiated. While no violation has been proven on the facts as presented, board members are cautioned that soliciting campaign contributions from staff must be done judiciously so as to avoid any appearance of impropriety as it may give rise to a violation of the School Ethics Act.

It is undisputed that a \$500.00 cash contribution from Hopkins and Kittrels was given to the current board president and it was returned. Accordingly, the original allegation and finding that the board president violated the election laws for failing to file the requisite reports is inaccurate. There was no need for the board member to file a campaign report because the money was returned. In addition, the allegation

contained in the initial report against the board president's campaign running mates, Kelly Logan and Theresa Rita Owens, of election law violations is unsubstantiated.

Regarding the second allegation of a campaign contribution solicitation from the WEAA, credence cannot be given to this allegation that the board president solicited a campaign contribution. The board president admits that she solicited their support; however, it was for written support. Also, there is insufficient correlation between the delay in negotiations and the alleged solicitation. Without additional evidence, this allegation cannot be substantiated.

#### **4) The current board president improperly used her authority to garner favor for family members.**

##### Hiring Allegation

This allegation asserts that the current board president abused her authority by directing an administrator to hire the board president's daughter's boyfriend and then directing the administrator to fire the boyfriend when the couple broke up. During the August interviews, all board members, as well as the Superintendent, executive director for human services and administration, middle school principals and the board president's daughter were interviewed.

In the August interview, the principal told OCI investigators that although the boyfriend was not the strongest candidate; the principal believed he would have problems with the current board president if he did not hire the daughter's boyfriend. After the two broke up, the principal alleged that the board president inferred that the boyfriend should be terminated by stating that the ex-boyfriend should know that as a non-tenured employee he could be terminated. The Superintendent, the middle school principal and the executive director for human resources and administration corroborated this version of events.

The current board president and her daughter, however, denied this allegation and stated that the Executive Director of Human Resources and Administrative Services and AAO recruited her daughter and the boyfriend. The board president admitted that naturally she was upset as a mother when the couple broke up, however, she still voted in favor of giving him a summer position after the break up. She also voted in favor of waiving his 60 day commitment requirement when he voluntarily resigned so that he could accommodate the start date in another district. Board minutes support her assertions. Based upon a review of the documents which support the board president's voting record, this allegation cannot be substantiated.

##### Transfer Allegation

The July 20 OCI report details another claim that the board president misused her authority by berating her daughter's supervisor when the daughter's supervisor attempted to transfer the daughter from teaching 8th grade to 6th grade. The report states that the supervisor discussed the reassignment with the daughter, who expressed an interest in teaching the same grade as her friend who was teaching 7th grade. The supervisor agreed to the reassignment but pointed her finger in the daughter's face and said that the reassignment was for the good of the school and not because the teacher was the board president's daughter.

This version of the allegation further asserts that the supervisor was called into a meeting with the board president and another administrator and the board president verbally berated her for mentioning that the teacher was the board president's daughter. The board president allegedly told the supervisor and the Superintendent that the daughter and the friend would go back to teaching 8th grade.

During the August interviews, the board president denied this version of events and offered her version. She stated that her daughter came home and told her that the supervisor stuck her finger in the daughter's face and said that her mother did not run her department. The board president called the Superintendent and requested a meeting. At the meeting, the board president told the supervisor that she did not think it was appropriate for her to yell or put her finger in her daughter's face. The supervisor apologized for any misunderstanding. According to the board president, there was no discussion about moving her daughter back to 8 grade. The board president believed that 6th grade was a better assignment.

OCI investigators also spoke with the board president's daughter who stated that the proposed reassignment from the supervisor was from 8th grade language arts to 6th grade math. When the daughter was told about the reassignment, she told the supervisor that she was not highly qualified in math as she was in language arts. The supervisor then allegedly pointed her finger in the daughter's face and said your mother does not run my department. The daughter was highly upset and left in tears. She shared what occurred with another staff member who was in a nearby room. That staff member corroborates in a written statement that the daughter left a meeting with the supervisor in tears.

During the August interviews, the supervisor told the OCT investigators that in mid-July 2004, she started a new process of having the teachers collaborate. Therefore, the English and math teachers in grades 6, 7 and 8 were assigned to work together. The board president's daughter was reassigned to 6th grade. When the daughter was informed of the change, she began to cry and ran out of the room. Later, the daughter asked about her friend's assignment, but the supervisor would not tell her. The supervisor believes that was when the daughter called her mother. When the supervisor learned that the daughter was highly qualified in language arts and not math, she re-considered and agreed to transfer her to 7th grade with her friend. The daughter accepted this reassignment. Thereafter, the supervisor was called into the Superintendent's office where the board president was allegedly angry, rude, and unpleasant. The board president allegedly directed the supervisor to move her daughter and friend to the 8th grade and allegedly told the other administrator in the room "that makes for a better racial balance." The current board president denies making this statement

The supervisor denies pointing her finger in the daughter's face. One week after the meeting, the Assistant Superintendent talked to her about the incident and told her to stay away from the board president.

The Assistant Superintendent stated that he did not witness the exchange between any of the parties. However, he did talk to the supervisor. He also stated that he could believe that the supervisor was capable of becoming very agitated and pointing her finger at someone although he did not witness it.

### Conclusion

Based upon the evidence, it does not appear that this allegation is credible. The daughter was not qualified for the position to which she was to be reassigned. Once the supervisor realized that, the assignment was changed. When notified of the incident with her daughter, the board president followed the proper channels and asked the Superintendent to schedule a meeting. Finally, the allegations regarding the current board president's alleged statements in reference to "racial balance" were not substantiated.

### **5) The Willingboro Board of Education made personnel decisions without the Superintendent's recommendation in violation of N.J.S.A. 18A:17-20b and 18A:27-4.1.**

#### N.J.S.A. 18A:27-4.1

The voters of Willingboro Township defeated the budget in the April 2005 election. Pursuant to N.J.S.A. 18A:13-19, the governing body determines the amount necessary to provide a thorough and efficient

education. By resolution dated May 18, 2005, the Willingboro Town Council determined that the district's base budget should be reduced by \$800,000. Thereafter, the Board, working in tandem with the Superintendent, must determine where to cut the budget to be in compliance with Township Council's dictate.

Eight board members, the County Superintendent and the Assistant Superintendents were interviewed and told OCI investigators during the August interviews that the Board repeatedly asked the Superintendent for recommendations for the budget cuts to meet the statutory May 19 deadline. However, the Superintendent did not respond. Accordingly, the former and current board presidents asked all board members to submit their ideas regarding proposed cuts. A list was compiled and submitted to the mayor on May 10. The Superintendent asserts that he never saw the list before it was given to the mayor. However, the current board president asserts that she showed it to him and he responded that he would not allow the Board to "cherry pick his people." The Superintendent did not dispute this statement. The Town Council considered the Board's proposed cuts and passed a resolution that incorporated some but not all of the Board's proposed cuts.

On July 8, 2005, the Superintendent submitted a memorandum to the Board containing a Position Control Table that purported to contain a list of positions to be eliminated and/or frozen. However, the table lists all the positions in the district including vacancies which were not funded and therefore would not impact the budget. This position table was submitted to the County Superintendent without the Board's knowledge or approval. At the July 11th meeting, the Superintendent acknowledged that he did so in response to the Board's act of submitting the proposed budget cuts to the Town Council without his approval. The County Superintendent and County Business Administrator told OCI investigators that they sought clarification from the Superintendent regarding the vacant positions, but never received a response.

The tape recorded meetings of July 11, 2005, reveal that the Board also sought clarification from the Superintendent about the table, but did not receive it. Board members attempted to explain that the vacancies did not qualify as cuts and therefore could not be considered savings. In addition, board members tried to explain that the table was misleading because the County Superintendent would not know that the vacancies were not funded, and therefore, were not cuts. However, the Superintendent was not convinced of any error. The Superintendent maintained that the table was merely a list of positions for discussion; a preliminary document. During the July 11 meeting, he stated that the document was not even approved by him, therefore, discounting his own document. He declared it was the Board's responsibility to discuss and determine which positions would be eliminated.

Rather than discuss the table, the Board on July 11, 2005 passed resolutions to combine the Assistant Superintendent positions, close the Stuart school, eliminate the principal at the adult high school and transfer the principal to the middle school and abolish the director of non-traditional learners. Board members explained to OCI investigators in August that the rationale for the proposed cuts was two-fold: 1) the Board knew they were in a financial crisis and had to take action but they were completely frustrated at the lack of communication and response from the Superintendent; 2) they would achieve larger savings by eliminating a high level administrator position than an assortment of lower salaried employees.

The Superintendent also alleged that the Board violated N.J.S.A. 18A:27-4.1 when the Board scheduled an interview of a current employee for the position of interim business administrator without the Superintendent's recommendation. Based upon interviews with the current board president, the district employee and the July 11 board meeting tapes, the Superintendent was present when the idea was put forth and he consented to the interview. However, the interview never occurred because the applicant did not show.

## N.J.S.A. 18A:17-20b

During the course of the July investigation, the OCI investigator came across an organizational chart that showed the board secretary reporting directly to the Board and not the superintendent. In reliance upon N.J.S.A. 18A:17-20b, the July 20, 2005 report determined that the Board's organization chart was flawed. Further review reveals that the statute does not expressly mandate that the board secretary report to the superintendent, and therefore, the Board's configuration is not inconsistent with the statutes. Accordingly, this finding is reversed.

## Conclusions

Based upon the interviews and taped minutes, the Board attempted to get the required information from the Superintendent without success. The information given by the Superintendent was insufficient. The Superintendent's position table does not appear to adequately propose how to reduce the budget by \$800,000. It appears to be merely a list of positions even he did not support.

When the Board attempted to get clarification and explain why the table did not make sense, the Superintendent refused to listen. The taped minutes reveal that he cut off board members' questions mid-stream, and offered information that did not address the board members' questions. Instead of coming to a conclusion on July 11, 2005, by discussing the position table and determining which positions should be eliminated, the board passed resolutions to eliminate positions and close one of the schools. This break down in communication demonstrates that the relationship between the two had deteriorated to the point that neither party was willing to hear from the other.

The Board's action to eliminate positions does not implicate N.J.S.A. 18A:27-4.1. N.J.S.A. 18A:28-9 allows boards of education to abolish positions whenever the board determines it is advisable to do so for "reasons of economy or because of reduction in the number of pupils or of change in the administrative or supervisory organization of the district or for other good cause."

New Jersey statutes do not require the Superintendent to submit proposed budget cuts to the governing body after a budget defeat. Rather, N.J.S.A. 18A:22-37 places the responsibility squarely on the shoulders of the board of education. This Board did not run afoul of the law by submitting the proposed cuts to the mayor without the Superintendent's preview.

### **6) A member of the Willingboro Board of Education made racially derogatory remarks to a staff member and took retaliatory action against the staff member.**

OCI investigators interviewed board members, superintendent, the board attorney and a staff member regarding allegations arising from a letter dated June 2, 2005, wherein a senior supervisory staff member alleged that her position was targeted for elimination. She believed that the genesis for this pending action was a verbal exchange between her and the current board president at a curriculum meeting on February 11, 2004. This staff member asserts in the June letter, that at this curriculum meeting, the current board president verbally attacked the staff member by stating that she (the board president) would not support hiring any other Caucasian candidates. The staff member believed the current board president chastised her for recommending too many white candidates.

During the July interviews, the OCI investigator interviewed the Superintendent and Executive Director for Human Resources and Administration who corroborated these allegations. In addition, the staff member told the OCI investigator in July that the board president accused her of being biased against African Americans. The staff member maintained that as a result of the staff member's refusal to make recommendations based upon race, the staff member's position was included in the list of cuts proposed

by the Board. Based upon these accounts and the fact that the position was indeed eliminated, the July report determined that these allegations were substantiated.

In August, when questioned on the issue, staff member maintained her allegations. In response, the current board president denied that she yelled or verbally attacked the staff member. Rather, according to the board president, her comment was that staff should reflect the diversity of the community. In addition, the board president submitted her voting record which reveals that she has voted in favor of every white candidate recommended by this senior staff member.

Moreover, based on the board president's conversation with other board members, she disputes that the Board's decision to eliminate that position was in retaliation for this incident. She also states that she did not recommend that the position be included on the list. Further, consistent with the Board's rationale of saving the most money by eliminating higher salaries, the Board considered two senior level positions. One person in that position had tenure and the other person did not. Accordingly, the decision was made to eliminate the position held by the non-tenured person.

Both the staff member's and the board president's versions of the story had corroborating witnesses. One board member, who spoke to OCI investigators in August, said that she was present at the meeting and confirmed the senior staff member's version. In addition, this board member asserted that the board attorney took no action to resolve the issue when it was brought to his attention. OCI investigators also spoke to another board member during the August interviews who was also present and confirmed the board president's version. The Superintendent told OCI investigators in August that he did not hear the exchange, but learned of it when a former board member came out to tell him. He described it as a "commotion." In response, the Superintendent took both parties out to dinner to discuss and resolve the issue.

OCI investigators also spoke with the board attorney in August. The board attorney told OCI investigators that he was notified by a board member on May 25, 2005 about this incident (which occurred in February 2004), however, when he asked the board member for the name of the board member who made the disparaging remark and the name of the staff person involved, the complaining board member refused to disclose either name. Accordingly, the board attorney stated that he could not verify the allegation or offer any advice. On June 1, 2005, the board member who initially contacted the board attorney e-mailed him a second time for recommendations on how to proceed. The board attorney responded on June 2, again asking for more information so he could properly offer advice. On June 2, this same board member responded that full disclosure would occur "at the appropriate time" as another course of action would be pursued. Copies of the email were submitted and corroborate this account.

### Conclusion

Although the staff member's position was listed on the list of budget cuts, and was eliminated by formal action of the Board, there is insufficient nexus between the two events to give rise to a finding of retaliation. The verbal exchange occurred in February, 2004. This is 15 months prior to the budget cuts. Additionally, OCI finds that the board president's rationale is entirely plausible. A greater savings is realized by eliminating an administrator position, and it is indisputable that a person holding tenure in a position has greater protections than a non-tenured person including the ability to bump into a lower position while retaining the current salary. Whether the board member and staff member had a verbal confrontation is unclear. However, the fact that the Board eliminated the position held by the same administrator who had a verbal exchange 15 months prior with a board member who is now board president is inconclusive.

Moreover, the board attorney's request for more information was prudent. While he could have given a generic response, the better practice was to get as much information as possible prior to giving legal advice upon which others will take action. For all of these reasons, the allegation of retaliatory action is unfounded and the July 20 report finding is hereby revised.

7) The sexual harassment investigation is suspect due to the conflict of interest of the parties initiating the action.

OCI investigators interviewed board members, Alonzo Kittrels, Marvin Hopkins, Nancy France, and Harry Rocco for this allegation. The Willingboro school administration received an anonymous letter alleging sexual harassment. The perpetrator was not named in the letter, so no investigation was conducted; however, district personnel and board members received training on the subject. A second letter alleging sexual harassment was subsequently received specifically naming school board member Robert Smith. Upon receipt of the charges, Mr. Smith wrote to the board president and asked for an investigation. At the request of the Board, the board attorneys recommended an independent attorney to conduct the investigation.

During the July investigation, the OCI investigator questioned why the district did not conduct an initial investigation using the Affirmative Action Officer (AAO), Marvin Hopkins, before going to an outside source. During the July interview The Executive Director of Human Resources and Administration stated that he was not contacted to conduct the investigation. Thus, giving the OCI investigator the impression of some covert conduct designed to produce a particular result — the removal of Robert Smith. Accordingly, the July report determined that the sexual harassment investigation was suspect.

During the August interview, however, OCI investigators were told that the AAO was contacted by labor counsel and told he would not conduct the investigation. The OCI learned that the Board, Superintendent nor the district's AAO wanted the AAO to conduct the investigation. The AAO and changed his previous statements from the July investigation and told OCI investigators in August that he did not think it would be appropriate for him to conduct the investigation because a school board member was involved.

Conclusion

The Board, Superintendent, and AAO did not think it was appropriate for the AAO to conduct the investigation, and therefore, an outside investigator was chosen. This process is entirely appropriate under the circumstances. Accordingly, this allegation is unsubstantiated.

Submitted by

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