

THE SCHOOL BOARD OF
ESCAMBIA COUNTY, FLORIDA

MINUTES, MAY 13, 2016

The School Board of Escambia County, Florida, convened in Regular Workshop at 9:00 a.m., in Room 160, at the J.E. Hall Educational Services Center, 30 East Texar Drive, Pensacola, Florida, with the following present:

Chair: Mr. Bill Slayton

Board Members: Mr. Jeff Bergosh
Mrs. Patricia Hightower

School Board General Counsel: Mrs. Donna Sessions Waters

Superintendent of Schools: Mr. Malcolm Thomas

Vice Chair Linda Moultrie and Board Member Gerald Boone were not present for this session.

Meeting was advertised in the *Pensacola News Journal* on May 2, 2016 – Legal No. 1657507

NOTE: The minutes from this session have been prepared according to *Roberts Rules of Order, Newly Revised*.
The video from this session is available at <http://escambiacountysdfl.swagit.com/play/05132016-531>

[*General discussion among School Board Members, the Superintendent, and staff occurred throughout this session.*]

I. CALL TO ORDER

Mr. Slayton called the Regular Workshop to order at 9:00 a.m.

II. COMMENTS FROM THE SUPERINTENDENT

The Superintendent listed the changes that had been made to the May 17, 2016 Regular Meeting agenda prior to this session.

The Superintendent advised that the School District was concluding its response to a regulatory investigation.* The Superintendent said this investigation, though conducted by a regulatory agency as opposed to the School District itself, would continue to be handled in the same manner as any other investigation in terms of the process used to protect the integrity of records. As such, the Superintendent advised that no records would be released to anyone, including School Board Members, while this investigation remained active. He noted however, that he and Mrs. Waters had discussed the possibility of releasing to the School Board, a brief summary of the School District's response.

As a member of the School Board and given that he was specifically named in the complaint, Mr. Bergosh believed he was entitled to view all records comprising the School District's response. If the Superintendent and/or Mrs. Waters believed otherwise, he asked them to cite with specificity, any legal basis for denying him access to those records. Mr. Bergosh said it was necessary for him to view the records to ensure that his portion of those records, in their entirety, were being submitted to the regulatory agency. Mr. Bergosh pointed out that Mrs. Waters had told him that a component of the records he submitted, would be withheld from the official response. Mrs. Waters advised the Superintendent and School Board, that in addition to the records Mr. Bergosh had been asked to provide, he also included an unsolicited memorandum. That memorandum included things she believed to be detrimental to the School District's/School Board's position because it was prepared at the request of an attorney in contemplation of imminent litigation or adversarial administrative proceeding. Mrs. Waters said Mr. Bergosh's memorandum qualified for attorney

work-product privilege, which is not revealed, except when there is a court order requiring it to be revealed or the client (which in this particular case would be both the School Board and the School District) waived that privilege. Upon direct inquiry by Mr. Bergosh, Mrs. Waters confirmed that all records Mr. Bergosh had provided would be included with the School District's official response, with the exception of that memorandum. [*Investigation by the Office of Civil Rights (OCR) of the U.S. Department of Education in response to complaints by Ms. Karen Broughton.]

III. MINUTES

a. [04-19-16 Regular Meeting](#)

There were no concerns regarding the minutes as presented.

IV. COMMITTEE/DEPARTMENTAL REPORTS

1. PTA Presentation
2. Stellar Employee of the Year
3. Kids License Tag Art
4. Elementary Science Olympiad
5. Escambia High School NJROTC
6. Unsung Hero Award
7. Five Star School Awards
8. NAFEPA Leadership Award

There was brief discussion on how to handle the voluminous number of students who would be recognized as part of Item 4, *Elementary Science Olympiad* and Item 5, *Escambia High School NJROTC*.

V. UNFINISHED BUSINESS

-No items submitted

VI. NEW BUSINESS

a. PROPOSED ADDITIONS OR REVISIONS TO SCHOOL DISTRICT RULES

1. Rule(s) Adoption
2. Permission to Advertise
 - A. [Approval to Advertise Notice of Intent to Adopt Amendments to the School District of Escambia County, Florida Rights and Responsibilities Handbook](#)

[Handout provided to School Board Members] There was general discussion among School Board Members, Mrs. Waters, the Superintendent, and the Superintendent's staff, concerning a number of matters outlined in the amendments to the *Rights and Responsibilities Handbook*. As a result of certain discussion, the Superintendent said the following changes would be made:

- Page i, ii, and vi would be marked to clearly identify that these pages would be stricken from the adopted version of the 2016-17 Rights and Responsibilities Handbook.
- Page 45 – under Chapter 8: Disciplinary Actions and Procedures, Section C., Severe Interventions and Consequences – Expulsion: the phrase “or disciplinary reassignment” would be added such that the sentence would read: “*In the event that a student is recommended for expulsion or disciplinary reassignment, the student or his/her parent/guardian may request a formal administrative hearing.*”

b. CONSENT AGENDA

1. Curriculum
 - No items discussed

- 2. Finance and Business Services
 - E. Purchasing
 - 14. [Custodial Services Agreement](#) [AMENDED]

(NOTE: *The Executive Summary and accompanying backup documentation was replaced entirely because of a pending vendor protest regarding the award of this agreement.*) The Superintendent advised that the bid award to American Facility Services, Inc. (approved by the School Board during the April 19, 2016 Regular Meeting) was currently under protest by another firm. The Superintendent advised that services provided by the current firm (GCA Service Group) would end on June 30, 2016, so in order to ensure contracted schools were properly cleaned and maintained prior to the start of the 2016-2017 school year, it was important that a new agreement be in place effective July 1, 2016. As such, he recommended that the School Board move forward in approving this agreement with American Facility Services, Inc. despite the outstanding bid protest, noting that should the protest prevail, this agreement would be terminated early.

- 3. Human Resource Services
 - No items discussed
- 4. Operations
 - No items discussed
- c. ITEMS FROM THE BOARD
 - No items submitted
- d. ITEMS FROM THE SUPERINTENDENT
 - 2. Student Discipline
 - A. [Disciplinary Reassignment](#)

Student Discipline #16-243-411, Charge(s): *Sexual offense*, Time Frame: 15/16 - 16/17
Student Discipline #16-244-411, Charge(s): *Sexual offense*, Time Frame: 15/16 - 16/17
Student Discipline #16-252-561, Charge(s): *Sexual offense*, Time Frame: 15/16 - 1st sem 16/17
Student Discipline #16-253-561, Charge(s): *Sexual offense*, Time Frame: 15/16 - 1st sem 16/17

The following comments were made by Mr. Bergosh concerning the Superintendent's disciplinary recommendation for students 16-243-411, 16-244-411, 16-252-561, and 16-253-561: *Mr. Bergosh stated that he felt the punishments for these students were disparate, with similar infractions resulting in disparate punishments for these students, with the students who had numerous disciplinary infractions previously and just as egregious sexual misconduct infractions receiving punishment that was not as severe as those students who had no previous disciplinary infractions. Furthermore, he stated that he feared that the administration of this punishment in such an apparently disparate manner was exactly the type of issue the OCR investigation would be looking at – as the two sets of students in question were of different races and the punishments appeared to him to be unequal, disparate.*

Mr. Bergosh said he intended to vote against the Superintendent's recommendations specific to students 16-252-561, 16-253-561, 16-243-411, and 16-244-411; as such, he would request a separate vote on each of the recommendations listed under Item V.d.2.A., *Disciplinary Reassignment*. Mrs. Waters advised that a motion to separate ("*to divide the question**") would be required so that the School Board could consider each recommendation separately (pursuant to §27 of *Robert's Rule of Order, Newly Revised*). [**When a motion relating to a single subject contains several parts, each of which is capable of standing as a complete proposition if the others are removed, the parts can be separated to be considered and voted on as if they were*

CORRECTED

distinct questions – by adoption of the motion for Division of a Question (or “to divide the question”).]

- e. INTERNAL AUDITING
-No items submitted
- f. ITEMS FROM GENERAL COUNSEL
-No items submitted

VII. PUBLIC FORUM

Mr. Slayton called for public forum; however, there were no speakers.

VIII. ADJOURNMENT

Mr. Slayton express his appreciation to those employees who worked with the Office of the State Attorney on an investigation that led to an Escambia County Grand Jury indictment of Newpoint Education Partners, LLC. Mr. Bergosh said he appreciated the courage demonstrated by the “whistleblower” whose report prompted the investigation.

There being no further business, the Regular Workshop was adjourned at 10:15 a.m.

Attest:

Approved:

Superintendent

Chair

PENDING BOARD APPROVAL