

THE SCHOOL BOARD OF
ESCAMBIA COUNTY, FLORIDA

MINUTES, OCTOBER 9, 2019

The School Board of Escambia County, Florida, convened in Special Meeting at 1:00 p.m., in Room 160, at the J.E. Hall Educational Services Center, 30 East Texar Drive, Pensacola, Florida, with the following present:

Chair: Mrs. Patricia Hightower (District IV)
Vice Chair: Mr. Bill Slayton (District V)
Board Members: Mr. Kevin L. Adams (District I)
Mr. Paul Fetsko (District II)
Dr. Laura Edler (District III)

Superintendent of Schools: Mr. Malcolm Thomas

Meeting advertised in the *Pensacola News Journal* on September 26, 2019 – Legal No. [3803009](#)

I. CALL TO ORDER/ADOPTION OF AGENDA

Mrs. Hightower called the Special Meeting to order at 1:00 p.m. Motion by Mr. Slayton, seconded by Mr. Adams, to adopt the agenda, carried unanimously.

II. HEARING IN MATTER OF ESCAMBIA COUNTY SCHOOL BOARD VS. WARREN; DOAH CASE NO. 18-2270

The Recommend Order of the Division of Administrative Hearings Administrative Law Judge Yolanda Y. Green was entered on May 16, 2019. The Attorney for the Petitioner submitted Exceptions to the Recommended Order on June 18, 2019, to which the Attorney for the Respondent filed a response. The Attorney for the Respondent did not submit any Exceptions to the Recommended Order.

Escambia County School Board, Petitioner Justin Warren, Respondent

Appearances for Petitioner:
Joseph L. Hammons, Esquire
The Hammons Law Firm, P.A.
17 West Cervantes Street
Pensacola, Florida 32501-3125

Appearances for Respondent:
Ronald G. Stowers, Esquire
Levine & Stivers, LLC
245 East Virginia Street
Tallahassee, Florida 32301

After due consideration, the School Board voted by majority vote to accept Petitioner's Exceptions 1, 2, and 3:

1. Regarding Paragraph 24 of the Conclusions of Law, the following language is substituted for the existing language: *"In consideration of the absence of any statute, rule, employment contract, collective bargaining agreement, or other authority that would entitle Mr. Warren to relief where Warren was suspended without pay for just cause and thereafter reinstated, the claim for back pay during the period of a valid suspension without pay is not justified or authorized."* (Motion by Mr. Adams, seconded by Mr. Fetsko, approved 3 to 2, with Mrs. Hightower and Dr. Edler voting "No." The Board found the foregoing substituted conclusion of law was as or more reasonable than the existing language in the Recommended Order)
2. Regarding Paragraph 29 of the Conclusions of Law, the following language is substituted for the existing language: *"That the School Board had just cause to suspend Warren without pay while the felony charges were pending was determined with finality in DOAH Case Number 17-4220,*

affirmed on appeal. It was Warren's conduct away from the work place that generated four felony charges that served as the just cause for the suspension of Warren while those charges were pending. Warren was not exonerated. He entered into a plea agreement resulting in three of the four felony charges being dismissed with sentence imposed on the remaining felony charge. While Warren was reinstated after the disqualification offense was dismissed as part of a plea bargain there is no law, rule, contract, CBA, or fairness justification to expend public school funds to compensate Warren for the period he was suspended without pay for just cause based on personal conduct unrelated to the performance of his employment responsibilities.” (Motion by Mr. Adams, seconded by Mr. Slayton, approved unanimously. The Board found the foregoing substituted conclusion of law was as or more reasonable than the existing language in the Recommended Order.)

3. Regarding Paragraph 30 of Conclusions of Law, the following language is substituted for existing language: *“The School Board's practice of awarding or not awarding back pay after an employee was suspended without pay in the event of reinstatement is based on equity and fairness. If an employee is accused of misconduct in the performance of his duties and exonerated, generally the employee should be reinstated with back pay. If the employee engages in private conduct away from the workplace that generates criminal charges, regardless of the disposition of those charges, there is no equity or fairness that would compel the School Board to use public funds to reimburse an employee for the consequences of his private conduct.”* (Motion by Mr. Adams, seconded by Mr. Slayton, approved unanimously. The Board found the foregoing substituted conclusion of law was as or more reasonable than the existing language in the Recommended Order)

Motion by Mr. Slayton, seconded by Mr. Adams, to accept Petitioner's Exceptions 1, 2, and 3, thus rejecting the Recommended Order of the Division of Administrative Hearings Administrative Law Judge Yolanda Y. Green entered on May 16, 2019. Motion carried 4 to 1, with Dr. Edler voting “No.”

III. PUBLIC FORUM

-No registration forms submitted

IV. ADJOURNMENT

There being no further business, the Special Meeting adjourned at 3:03 p.m.

Attest:

Approved:

Superintendent

Chair