

**SPECIAL MEETING
JANUARY 9, 2018-MINUTES**

**HEMPSTEAD PUBLIC SCHOOLS
BOARD OF EDUCATION
SPECIAL MEETING
JANUARY 9, 2018
MINUTES**

The special meeting of the Hempstead Public schools board of Education was held in the high school auditorium, 201 President Street, Hempstead, New York 11550. All of the Board Members were present. The meeting was called to order at 6:30 P.M., moved, by Trustee Jackson and seconded by Trustee Gates. There was a brief update on the heating and plumbing issues in the district that were caused by the extremely cold temperatures.

BOARD MEMBERS PRESENT:

Maribel Touré	President
Gwendolyn Jackson	Vice President
David B. Gates	Trustee
LaMont Johnson	Trustee
Randy Stith	Trustee
Jack Bierwirth	Trustee-Ex-Officio

STAFF MEMBERS PRESENT:

Shimon Waronker, Ed. D.	Superintendent of Schools
Dr. Valerton Mc Donald	Deputy Superintendent
Lawrence Dobroff	Assistant Superintendent for Business & Operations
Rodney Gilmore, Ed. D.	Assistant Superintendent for Human Resources
James Clark	Assistant Superintendent for Secondary C & I
Regina Armstrong	Superintendent for Elementary C & I
Deborah DeLong	assistant Superintendent Pupil Personnel Services
Janet Lovett	Bilingual
Ahunna Akoma, Ed. D.	Assistant Superintendent for Technology
Djuana Wilson	Special Education
Andrew Hardwick	Supervisor of Security
Timothy Gregg	Facilities
John Sheahan	General Counsel
Jonathan Scher	Labor Counsel

Trustee Jackson moved, seconded by Trustee Touré to convene to executive session for legal counsel and personnel discussion at 6:55 P.M.

MOTION
To convene to
executive session

YES 5

MOTION CARRIED

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9520.3

ADMINISTRATIVE LEAVE OF ABSENCE WITH PAY POLICY

The Board of Education has the legal authority to place an employee on an Administrative Leave of Absence with Pay when it would be appropriate to remove the employee from the active employment of the District, and to keep that employee on payroll, while not subjecting that employee to discipline.

For example, the District may wish to place an employee on an Administrative Leave of Absence with Pay (1) when an investigation is being conducted by the District relating to an employee's misconduct or questionable judgment or conduct, (2) pending the commencement of disciplinary action, whether by the filing and service of disciplinary charges against the employee, or otherwise, or (3) when circumstances warrant the Board of Education to remove an employee from the work place and from active work in the District, to serve the best interests of the District. This policy formally documents how the Board of Education should act in this regard concerning the exercise of such legal authority.

Placement of an employee on an Administrative Leave of Absence with Pay shall not be used for disciplinary purposes and shall not be a substitute for a suspension appropriately imposed pursuant to N.Y. Education Law and/or the District's collective bargaining agreements, where the Board determines that discipline is warranted.

The examples set forth below are for illustration purposes only and shall not limit or restrict the Board of Education's exercise of its discretion to place an employee on an administrative leave of absence with pay, where the facts and circumstances warrant such a leave for a reasonable period of time, as determined by the Board of Education.

Example #1: Where an employee is alleged to have engaged in misconduct, and the District seeks to conduct an investigation of the facts, while not having the employee in the workplace out of concern that the employee's presence might (a) create a hostile workplace environment, or be a workplace disruption; (b) impact witnesses' willingness to cooperate; (c) impair the preservation of evidence or obstruct the investigation.

Example #2: Where the Board of Education has rejected the Superintendent's recommendation to grant tenure and the employee has been provided with N.Y. Education Law § 3031(b) notice of the Board's intention to issue a final determination that tenure will not be granted, the Board may place an employee on an Administrative Leave of Absence with Pay to bridge the gap between (1) the time that the Board has made its advisory vote under N.Y. Education Law § 3031(b) and (2) the time the Board makes a final determination that tenure is not granted pursuant to N.Y. Education Law § 3031(b).

An employee placed on an Administrative Leave of Absence with Pay will be paid for each regular workday that he/she is out from work and shall continue to accrue vacation, sick, personal, holiday or other paid benefit days while out from work on such

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an Administrative Leave of Absence with Pay. Further, an employee on such paid leave shall continue to be covered by the District's health insurance and shall continue to have payments made on his/her behalf to the New York State & Local Retirement System during such Administrative Leave of Absence with Pay. Seniority shall also accrue during such leave. For avoidance of any doubt, an employee's salary and benefits shall not be abridged by virtue of being placed on an Administrative Leave of Absence with Pay.

The foregoing policy shall be applied so as to provide Administrative Leave of Absence with Pay for a period not in excess of sixty (60) consecutive working days, unless extended by the Board in a subsequent consideration of the matter.

If an employee is placed on such leave, then at or before the sixtieth (60th) consecutive working day, the Board of Education shall determine whether it will (1) take steps, as permitted by N.Y. Education Law or by any of the District's collective bargaining agreements that may be applicable, or under a private contract between the employee and the District, if any, to seek to discipline against the employee for the alleged misconduct that may have been the subject of an investigation, or (2) terminate such leave and restore the employee to the active employ of the District, or (3) extend the period of such leave to permit such investigation to continue or to permit such other steps as may need to be taken, if necessary.

If the Board fails to act within the sixtieth (60th) consecutive working day following the commencement of such leave, then such leave shall continue until the further action of the Board of Education.

The decision to grant such leave shall be within the sole discretion of the Board of Education.

Legal Basis For Policy:

Appeal of Parker, N.Y. Commissioner of Education Decision No. 17,054 (2017).

Appeal of Kavanaugh, N.Y. Commissioner of Education Decision No. 16,897 (2016).

MOTION
To adopt policy as
As amended.

YES 3
NO 2 (Trustees Touré & Jackson)

MOTION CARRIED

*****Trustee Jackson for the record: I just want to say that is not a 3rd read our policy says there must be a 3rd reading, in terms of reading the policy it has to be three times but I got in touch with School Boards Association and was told that you have read it the first time and there are drastic changes and if the second one has substantial changes then the third one should not be considered a third read.*

Trustee Johnson moved, seconded by Trustee Gates to assign counsel to respond to the notice of supersession dated January 5, 2018 concerning Master Teachers.

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1-9-18 HAND CARRY #3

**RESOLUTION TO ASSIGN COUNSEL TO RESPOND TO THE NOTICE OF
SUPERSESSSION, DATED JANUARY 5, 2018,
SERVED ON JANUARY 5, 2018 UPON THE DISTRICT'S BOARD OF EDUCATION
BY THE DISTRICT'S SUPERINTENDENT OF SCHOOLS, AS RECEIVER,
CONCERNING THE MASTER TEACHERS**

RESOLVED, that the matter of preparing the District's Response to the Notice of Supersession, dated January 5, 2018, served on January 5, 2018 upon the District's Board of Education by the District's Superintendent of Schools, as Receiver, concerning the employment of the Master Teachers, is assigned to The Scher Law Firm, LLP.

MOTION	YES 3	MOTION CARRIED
To approve to assign Counsel to respond to Notice of supersession dated 1-5-18	NO 2 (Trustees Touré & Jackson)	

****Trustee Touré for the record: "It is unnecessary that that the lawyers should get involved in a response that the Board can prepare by our self and we can respond as a board together this is an unnecessary expense that we are going to incur for some that we are supposed to do as board members."*

1-9-18 HAND CARRY # 4 Pulled

Trustee Johnson moved, seconded by Trustee Stith to approve hand carry #5 as indicated.

1-9-18 HAND-CARRY #5

**RESOLUTION DIRECTING THE DISTRICT'S SUPERINTENDENT OF SCHOOLS TO
CEASE AND DESIST FROM ENGAGING THE SERVICES OF THE MASTER
TEACHERSWITH RESPECT TO ANY OF THE DISTRICT'S BUSINESS
AFTER THEIR EMPLOYMENT HAD BEEN TERMINATED UPON EXCESSING ON
DECEMBER 21, 2017**

RESOLVED, effective immediately the District's Superintendent is directed to cease and desist from engaging the services of the Master Teachers with respect to the conduct of any District business, whether the Community Schools Grant or any committee work, after their employment had been terminated upon excessing on December 21, 2017; and it is further

RESOLVED, that the District's Superintendent is directed to prohibit the Master Teachers who were excessed on December 21, 2017, and are no longer employees of the District effective December 22, 2017, from volunteering to provide services or rendering any services to the District; and it is further

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RESOLVED, the District Clerk is directed to send a copy of this resolution by email and hand delivery to the District's Superintendent of Schools, within 24 hours of the adoption of this resolution.

MOTION	YES 3	MOTION CARRIED
To approve hand carry	NO 2 (Trustees Touré & Jackson)	
Resolution # 5 as written		

*****Trustee Jackson for the record “ I would like to say that this is a huge mistake and I think that it is disgraceful that we are not going to let them finish the stuff that we have started and when you have someone volunteering to not let them finish the work.”*

****Trustee Touré for the record: “Of the five board members, of the five Trustees of the board only Trustee Jackson has an educational background, the rest we are working on behalf of the community the public schools and behalf of the students, so when you make the decisions, we have to make decisions based on the recommendations of the Superintendent and his cabinet, when we fire teachers based on one single Trustee who has no educational background it's a disgrace, when they are saying those teachers are to allowed to come and volunteer we are doing a disservice for the schools.”*

Trustee Gates for the record: “ I would like to make it very clear that through our discussion that the grant will not be lost, the community school grant, there is a portion that is waiting to be submitted so at the end of the day it will not be lost, it is not lost, the current administrations is working hard to make sure all of the pieces are put together, number two the master teachers were not involved in what the residents voted on and until we understand that we are duty bound to what the residents voted for and a budget that was adopted by the community and voted on by the community, it can't be about the education of a board member, it has to be about a budget line that did not exist, that was created to fulfill what the board did not adopt originally.”

Dr. Waronker for the record; “ The master teachers were working on a 5.4 million dollar grant, they were about to complete the grant when the board without conversation and without dialogue fired the master teachers on December 21st , I shared with the board my terrible concern that this district would lose 5.4 million dollars, but then the board proceeded before the public, without purpose to let go of those folk that were working so hard, these folk despite the fact that they were fired by this board still showed up until today to volunteer to help.”

Trustee Stith for the record: “There is no such thing as a volunteer employee here in the Hempstead School district, who will be held accountable if we don't succeed in our efforts to obtain this grant? A volunteer or somebody that's employed by the district, fact of the matter is we had a capable grant person handling the grants at the beginning of the year, the Superintendent took that project away from them and handed to the master teachers, master teachers are not in the organizational chart of the Hempstead

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school district. We took resources away from the students to pay for them, so while you over there making your opinions know to the public, it doesn't me that it's true."

1-9-18 HAND-CARRY #6 Pulled

Trustee Stith moved, seconded by Trustee Johnson to approve hand carry resolution Administration LOA with Pay # 7 as indicated.

1-9-18 HAND-CARRY #7

**RESOLUTION PLACING SUPERINTENDENT OF SCHOOLS SHIMON WARONKER
ON ADMINISTRATIVE LEAVE OF ABSENCE WITH PAY,
EFFECTIVE IMMEDIATELY**

RESOLVED, that the District's Superintendent of Schools, Shimon Waronker, is placed on Administrative Leave of Absence with Pay, for 60 days, pending the conduct of investigations in the confidential attachment annexed hereto; and it is further:

RESOLVED, that effective immediately, Regina Armstrong is designated, appointed and shall hold the office of Acting Superintendent of Schools, until a further resolution of Board; and it is further

RESOLVED, the District's Superintendent of Schools, Shimon Waronker, while on such Administrative Leave of Absence with Pay, shall cooperate fully, and full time, with the District's Special Counsel appointed to investigate Shimon Waronker's involvement in and the circumstances surrounding the publishing of the RFP, the responses to the RFP, the negotiations of the contract, the drafting of the contract and the engagement of the New American Initiative ("NAI"), and any and all services rendered by NIA, the processing of payments made to NAI, and the receipt of payments by NAI; and it is further

RESOLVED, the District's Superintendent of Schools, Shimon Waronker, while on such Administrative Leave of Absence with Pay, shall cooperate fully, and full time, with the District's Labor Counsel regarding any other investigation that may be pending or is being conducted or that may arise; and it is further

RESOLVED, the District's Technology Office is directed to restrict access to, shut down remote access, and prohibit deletion of any and all email accounts, or the contents thereof, if used, accessed, monitored, or available to Shimon Waronker, while he is on such Administrative Leave of Absence with Pay; and it is further:

RESOLVED, the District's Acting Superintendent shall have authority to grant or deny access to Shimon Waronker to the District's property, real or personal, while he is on such Administrative Leave of Absence with Pay, as the District's Acting Superintendent deems fit; and it is further:

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RESOLVED, that Shimon Waronker shall not enter upon the District's real property, while he is on such Administrative Leave of Absence with Pay, without the written permission of the District's Acting Superintendent given in advance; and it is further:

RESOLVED, the District Clerk is directed to send a copy of this resolution by email and overnight delivery to Shimon Waronker, within 24 hours of the adoption of this resolution.

MOTION	YES 3	MOTION CARRIED
To approve hand carry resolution # 7	NO 2 (Trustees Touré & Jackson)	

Trustee Touré for the record: *“As the CEO of the district the Superintendent has the power and obligation to perform all those duties and to accept all the responsibility as set forth in education law of the state of New York. Other statutes of the State of New York, or the rules and regulations of the commissioner of education or board of regents, including any amendments or successor statutes therto. Dr. Shimon Waronker is and continues to serve in his dual role as Superintendent and receiver. As such he is charged with the authority and responsibility to oversee all supervisory, administrative, instructional, non instructional, personnel within the District. He is also authorized to manage and operate schools within the District, and in doing so may supersede any decision, policy, or regulation of the Board of Education which negatively impacts or conflicts with the school intervention plan. Dr. Waronker has been authorized to operate under any and by specific provisions of the New York State Education law and shall have full managerial and operations control over the schools under his jurisdiction. No matter what policy is instituted or altered, Dr. Waronker may not be suspended, disciplined, or terminated, without just cause and only for alleged acts of material breach of his employment contract, neglect of duty, gross misconduct, or disability from performance of his duties and only following a fair hearing before an impartial hearing officer.”*

1-9-18 HAND CARRY # 8 PULLED

Trustee Stith moved, seconded by Trustee Johnson to adjourn the meeting at 11:46 P.M.

MOTION	YES 5	MOTION CARRIED
Meeting adjourned		

Respectfully submitted:

Patricia Wright
District Clerk