

**COMMISSIONER OF EDUCATION
STATE OF NEW YORK**

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**IN THE MATTER OF THE APPLICATION OF
JESSICA LOVINSKY and PHEE SIMPSON,**

PETITIONERS,

**FOR THE REMOVAL OF DOREEN CLIFFORD
AND FELICIA WATSON
MEMBERS OF THE BOARD OF EDUCATION OF THE
POUGHKEEPSIE CITY SCHOOL DISTRICT AND
THE DISMISSAL OF DISCIPLINARY CHARGES**

**AFFIDAVIT
OF PHEE SIMPSON**

-AGAINST-

**DOREEN CLIFFORD, and FELICIA WATSON
in their capacity as Members of the Board of Education
of the Poughkeepsie City School District and
BOARD OF EDUCATION
OF THE POUGHKEEPSIE CITY SCHOOL
DISTRICT**

RESPONDENTS.

_____^x

STATE OF NEW YORK)

ss.:

COUNTY OF ALBANY)

I, Phee Simpson, being duly sworn, deposes and says:

1. I am the Petitioner herein and make this affidavit in support of the Appeal before the Commissioner of Education, seeking the removal of Doreen Clifford and Felicia Watson from the Board of Education of the Poughkeepsie City School District, as well as the dismissal of disciplinary charges brought against me pursuant to Education Law §3020-a (SED Case No.: 32659).

2. All of the information contained herein is either based upon personal knowledge or upon information and belief, if so specified.
3. In addition to the aforementioned relief requested, I am seeking an immediate stay of the 3020-a proceeding pending the determination herein.
4. Without such a stay, I will be immediately and irrevocably prejudiced in that I will be required to defend the allegations against me and present evidence that may result in disciplinary action against me, potentially including the requested penalty of termination, not to mention the irrevocable damage such hearing and/or penalty may have on my professional reputation and due process rights.
5. I am the tenured Executive High School Principal in the District.
6. On or about Thursday, January 18, 2018, Special Counsel for the District Todd J. Aldinger, Esq., not the superintendent of schools, recommended disciplinary charges against me based upon a biased and incomplete investigation he performed in relation to the graduation of the 2013 Cohort.
7. Upon information and belief, Mr. Aldinger recommended the charges, knowing that there is an active investigation into the very same allegations currently being performed on behalf of the New York State Education Department.
8. These charges were voted on in Executive Session, in accordance with Education Law §3020-a(2)(a), on January 18, 2018.
9. I was personally served with the charges on Friday, January 19, 2018.
10. On Monday, January 22, 2018, another Board meeting was called with four issues on the agenda:

(A) Charging Employee #2376 under Section 3020-a of the Education Law and placing same employee on paid administrative leave until further notice;

(B) Providing a promotion to Dr. Elizabeth TenDyke, who was one of Mr. Aldinger's primary sources of information in his draft report;

(C) Appointing an Acting Executive Principal for the High School in the event that the appointed Executive Principal be absent; and

(D) Accepting Petitioner Lovinsky's resignation. (Exhibit G to Verified Petition)

11. I am Employee #2376.

12. Voting on my disciplinary charges in public session of a Board of Education meeting is in violation of §3020-a(2)(a) and District Policy 2330 (Executive Session), which explicitly provides "...no formal business may be transacted at such session, except voting with respect to the placement of children with disabilities **and upon charges preferred against tenured teachers pursuant to Section 3020-a of the Education Law.**" (Emphasis added). (Exhibit K to Verified Petition)

13. On or about January 22, 2018, in response to a comment on a Facebook post by Poughkeepsie Journal reporter Nina Schutzman, Respondent Clifford stated that the disciplinary charges were based upon, "No. Didn't meet attendance requirements and still graduated, among other issues." (Exhibit H to Verified Petition)

14. Ms. Clifford could have only known the reasons for the charges based upon privileged and confidential information provided to her in executive session.

15. Disclosing the basis of my disciplinary charges violates Education Law §3020-a(3)(c)(1)(C), as well as Board Policy 2330, which governs Executive Sessions, Board Policy 2160, which discusses the confidentiality requirements of Board members and also

discusses that violations of the confidentiality requirements is a basis for removal from office. Removal from office is also authorized pursuant to Policy 2140, which allows the Commissioner of Education to remove Board members for “subversive activities, willful violation or neglect of duty, disobedience of a lawful requirement of the Commissioner and other acts in accordance with law.” (Exhibits I-K of Verified Petition)

16. Upon information and belief, Ms. Clifford made this disclosure of the basis of my disciplinary charges knowingly, willfully and maliciously in order to violate my exclusive right to keep the disciplinary matter private in retaliation for several public disagreements we have had concerning her interests and representation of the District, both while running as a candidate for the Board of Education in the Spring 2017 and also after she was duly elected.
17. Placing me on administrative leave, charging me pursuant to Education Law §3020-a, and appointing an Acting Executive High School Principal in the same meeting would have allowed most people to figure out that I was the employee in question, but still would have raised a slight shield; however, at the January 22, 2018 Board of Education meeting, Poughkeepsie Journal reporter Nina Schutzman was provided with a written statement by Dr. Watson, setting forth that I was the employee placed on administrative leave. (Exhibit O to Verified Petition)
18. Dr. Watson could have only obtained the information that I was the employee placed on paid administrative leave though information provided to her within Executive Session.
19. In the past, the District has declined to identify by name employees who have been placed on administrative leave on the basis that it is confidential personnel information. (Exhibit P to Verified Petition)

20. Disclosing the fact that I was the employee placed on administrative leave that night, when such leave was authorized in the same vote to pursue disciplinary charges, violates Education Law §3020-a(3)(c)(1)(C), as well as Board Policy 2330, which governs Executive Sessions, Board Policy 2160, which discusses the confidentiality requirements of Board members and also discusses that violations of the confidentiality requirements is a basis for removal from office. Removal from office is also authorized pursuant to Policy 2140, which allows the Commissioner of Education to remove Board members for “subversive activities, willful violation or neglect of duty, disobedience of a lawful requirement of the Commissioner and other acts in accordance with law.” (Exhibits I-K of Verified Petition)
21. Upon information and belief, Dr. Watson made this disclosure of the basis of my disciplinary charges knowingly, willfully and maliciously in order to violate my exclusive right to keep the disciplinary matter private in retaliation for my vocal and active representation of the administrative bargaining unit, which has included pointing out that Dr. Watson’s voting record has been consistently against the union, as well as to serve as a distraction and/or rallying cry to the fact that her brother, former Poughkeepsie Superintendent Robert Watson, is attempting to bring a charter school into the District.
22. On January 22, 2018, the Board of Education, in a vote of 3-2, preferred disciplinary charges against me. (Exhibits Q-R to Verified Petition)
23. Respondents Clifford and Watson were two of the three individuals who improperly voted in public session to bring disciplinary charges against me. (Exhibits Q-R to Verified Petition)

24. Upon information and belief, given that the Board of Education had already properly voted on 3020-a charges against me in Executive Session on January 19th, the decision to illegally vote on said charges in public session was done willfully and maliciously with the intent of harming my name and in knowing violation of my exclusive right to keep the 3020-a hearing and the underlying charges confidential until such time as a decision is rendered, as well as my due process property rights in my employment.
25. The aforementioned public vote and press release resulted in articles posted both on social media and in the press, revealing that I was placed on leave pending a 3020-a hearing and the basis thereof. (Exhibits Q-R to Verified Petition)
26. At no point in time prior to January 22, 2018 did I consent to an open disciplinary hearing or the basis thereof being made public.
27. I still do not intend on having a public hearing, in accordance with my exclusive right under §3020-a(3)(c)(1)(C).
28. Since the disclosure of my administrative leave and disciplinary charges, I have been contacted by many employees of the Poughkeepsie City School District, urging me to “not take the fall for Dr. Williams” and to “give the Board what it wants.”
29. I am currently unaware of how I am potentially taking the fall for Dr. Williams or how I could possibly give the Board what it wants because neither I, nor my attorney, had ever been contacted by the District about the charges and/or potential settlement.
30. In fact, the 3020-a charges came as a complete surprise to me, especially since there is a pending investigation into the matter on behalf of the New York Department of Education.

31. Upon information and belief, the source of which is my conversations with colleagues, the District's intimidation tactic of disclosing privileged personnel information to the media has created a fear among District employees that testifying on my behalf will result in public humiliation and retaliation by the Board of Education and specifically Respondents Watson and Clifford, thereby severely hampering my ability to present a defense.
32. Further violating my rights to confidentiality, it came to my attention on February 12, 2018 that the District released unredacted notes and findings of conclusion and questions of fact concerning the underlying investigation that forms the basis of my disciplinary action to Poughkeepsie Journal reporter Nina Schutzman. (Exhibit S to Verified Petition)
33. These papers specifically accuse me by name of misconduct, incompetence and lying in great detail and recommends that I be disciplined for the reasons set forth in the documents. (Exhibit S to Verified Petition)
34. Disclosing these unredacted reports to the media violates my exclusive right under Education §3020-a(3)(c)(1)(C) and has seriously impeded my due process rights, as well has harmed my reputation and presumption of innocence in the hearing.
35. Accordingly, it is submitted that the instant disciplinary charges against me must be dismissed as a matter of law for violations of Board Policy and Education Law §§306, 3020-a(2)(a), (3)(c)(1)(C), and 8 NYCRR §§ 82-3.3, 82-3.8(3).
36. It is further submitted that actions of Respondents Clifford and Watson cited herein warrant their removal from the Board of Education "for subversive activities, willful violation or neglect of duty, disobedience of a lawful requirement of the Commissioner

and other acts in accordance with law.” (See, Board Policy 2140; Education Law §§306, 1706, 1709(18), 2109.)

37. Finally, it is respectfully submitted that a stay must be issued, preventing the prosecution of the 3020-a charges against me until such time as the Commissioner of Education renders a decision herein.

Dated: February 14, 2018


PHEE SIMPSON

Sworn to and subscribed before me on the 14
Day of February, 2018


Notary Public

JENNIFER L. CARLSON
Notary Public, State of New York
Qualified in Albany County
No. 02CA6129706
Commission Expires July 05, 20 21