

**COMMISSIONER OF EDUCATION  
STATE OF NEW YORK**

\_\_\_\_\_ X  
**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**

**VERIFIED  
PETITION**

**ORAL ARGUEMNT  
REQUESTED**

**-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  
**TO THE COMMISSIONER OF EDUCATION:**

Petitioners, JESSICA LOVINSKY and PHEE SIMPSON, by their attorneys,  
School Administrators Association of New York State (“SAANYS”), Office of General  
Counsel, Arthur P. Scheuermann and Wendy S. DeForge Counsel, allege as follows:

**Jurisdiction**

1. Jurisdiction is established by Section 310 of the Education Law and Commissioner’s  
Regulation 8 NYCRR §§30, 275, and 276.

## Parties

2. Petitioner, Jessica Lovinsky (hereinafter “Ms. Lovinsky”) was employed as the Assistant Principal at the High School for the Poughkeepsie City School District (hereinafter “District”) from February 2016 until January 2018.
3. During her employment, Ms. Lovinsky served as a probationary administrator in the tenure area of Secondary Assistant Principal.
4. In January 2018, she tendered her resignation which the Board immediately accepted, even though Ms. Lovinsky had attempted to withdraw it.
5. Ms. Lovinsky has standing to bring this Appeal based upon her residency within the geographic boundary of the District, specifically she resides at 43 Prestwick Court, Poughkeepsie, New York 12603.
6. At all times relevant, Petitioner Phee Simpson (hereinafter “Ms. Simpson”) has been a tenured administrator within the District in the tenure area of executive high school principal.
7. Based on the untoward events set forth below, Ms. Simpson is now the subject of unauthorized and improper disciplinary actions and unlawful disclosures of Board of Education executive session information leaked by the individual Respondents to members of the media.
8. At all times relevant, Respondent Doreen Clifford (hereinafter “Board member Clifford” or “Ms. Clifford”) is the duly elected Vice President of the Board of Education of the District.

9. At all times relevant, Respondent Felicia Watson (hereinafter “Board member Watson” or “Dr. Watson”) is the duly elected President of the Board of Education of the District.
10. Respondent Board of Education of the District (hereinafter “Board”) is a duly elected legislative body legally in charge of the operations of the District.

**RELIEF REQUESTED**

11. Petitioners seek an Order from the Commissioner (1) directing the removal of Board members Clifford and Watson from the Board, (2) immediately dismissing the trumped up disciplinary charges against Ms. Simpson (SED Case No.: 32659), and (3) reinstating Ms. Simpson to her tenured position as Executive Principal of Poughkeepsie High School.
12. The grounds for the requested relief center on Board members Clifford and Watson’s unlawful disclosure of confidential Board information on social media as well as them leaking privileged executive session information to the media that was discussed in Board executive session.
13. Their misconduct violates District policy, state law and attendant regulations, as well as prior decisions of the Commissioner of Education. See, Poughkeepsie City School Board Policy §§2140, 2160 and 2330, as well as General Municipal Law §805-a, N.Y. State Const. Art. XII, §4; Public Officers Law §10; Education Law §§306, 3020-a(2)(a), (3)(c)(1)(C), and 8 NYCRR §§ 82-3.3, 82-3.8(3), *Application of Nett and Raby*, 45 Ed Dept Rep 259, Decision No. 15,315 (2005); *Appeal of Hoefler*, 45 Ed. Dept. Rep. 66, Decision 15,263 (2005); *see also Application of Board of*

*Education of the City School District of the City of Buffalo*, 53 Ed. Dept. Rep \_\_\_,  
Decision No. 17,147 (2017).

14. **Please take further NOTICE that the within petition contains an application for a stay order. Affidavits in opposition to the application for a stay must be served on all other parties and filed with the Office of Counsel within three business days after service of the petition.**
15. A stay is warranted in the instant appeal because without one, Ms. Simpson has been and continues to be irrevocably prejudiced by the public disclosure of privileged and confidential executive session information, including the public release of her identity as it relates to preferred disciplinary charges pursuant to Education Law §3020-a, the substance of the disciplinary charges against her and the chilling effect such disclosures are having on her ability to defend herself against those charges.
16. It is respectfully submitted that the instant Petition as well as the supporting affidavits and documents contain substantial evidence of the subject Respondent Board members' willful violations of law, regulation and policy that will sustain the relief requested herein.
17. Equally important, a stay is critically necessary to halt the disciplinary arbitration SED Case No.:32659 against a tenured administrator until such time as the New York State Education Department ("NYSED") has had sufficient time to fully and fairly investigate the alleged improprieties asserted in a one-sided report prepared by Todd Aldinger, Esq. an outside attorney hired by the Board.

18. To proceed forward with the disciplinary arbitration while NYSED is conducting its own thorough investigation will irreparably damage the tenured administrator's due process right to a fair hearing.
19. Such harm significantly outweighs any slight inconvenience to the Respondents, who merely conducted a brief inquiry into the underlying allegations without interviewing many of the District employees involved, and then extrapolated certain contentions therefrom without proof for political purposes.

### **FACTS**

20. Ms. Lovinsky had served in the position of Assistant High School Principal from February 28, 2016 until January 2018. See Board of Education meeting minutes from February 26, 2016, a copy of which is attached as Exhibit A.
21. During her initial year of employment, the 2015-16 school year, Ms. Lovinsky was assigned and served as the 11<sup>th</sup> grade class principal, which meant that she oversaw the entire junior class (Class of 2017) as they matriculated in the District toward graduation in 2017. See Lovinsky Aff.
22. Thus, during the 2016-17 school year, she worked with the 2017 class as these were seniors. Id.
23. Ms. Simpson was Ms. Lovinsky's supervisor at Poughkeepsie High School.
24. Together, Ms. Simpson and Ms. Lovinsky worked to ensure that the Class of 2017 met the requirements for graduation, and for those who were at risk of not graduating, they intervened to provide those at-risk students with additional help, services and programs to successfully graduate. Lovinsky Aff.

25. As an urban New York school district, historically the District has struggled with low graduation rates, and as such, has implemented various processes and programs for at-risk students to better their chances of graduating.
26. In the District, administration evaluates the high school students and place them into three categories for monitoring purposes.
27. For example, high school students categorized as “Green” students meant that the student had satisfied all the requirements to that point to graduate.
28. Students designated “yellow” had achieved the credits necessary for graduation but had to re-take certain examinations to fulfill the requirements for graduation.
29. Students with the “red” classification were deficient in the number of required credits to graduation and also had to make-up one or more examinations, including state Regents tests.
30. The program is designed identify those students who will or may need academic assistance and/or interventions to graduate. The high school administration and staff work collaboratively in the identification of students and providing multiple services and/or programs to those underperforming students. Lovinsky Aff.
31. Intervention is provided pursuant to the Response to Intervention model established by New York State Education Law.
32. As it applied to the Class of 2017, Ms. Lovinsky and Ms. Simpson worked to assure that all students in need received appropriate help during the 2016-2017 school year. Lovinsky Aff.

33. For certain at-risk students in the Class of 2017, interventions included accommodations based on the identification of disability consistent with the Rehabilitation Act of 1973 §504, 29 U.S.C.A. §794 (“§504”).
34. Once a student had been identified as a yellow or red student based on the tiered intervention process, an assessment of the student is performed.
35. As part of the assessment, high school administration, here Ms. Lovinsky and Ms. Simpson, schedule meetings with the affected students’ parents to explore why the student is at risk of not graduating.
36. At those parent meetings, part of the protocol is to determine if the student suffers from a disability that adversely effects their ability be academically successful.
37. If information is provided by the parents or staff that reveal that the student may suffer from a disability, the District’s Family and Student Support Services Department is notified to schedule a meeting of the 504 Committee to determine if the student has a disability and what, if any accommodations may be afforded to the student in taking Regents examinations. Lovinsky Aff.
38. The 504 committee meetings are scheduled in groups of students as it is difficult to coordinate the attendance of various District stakeholders for those meetings.
39. The 504 accommodation process is different from the process used to determine if a student qualifies for Individual Education Plan (“IEP”).
40. This process has been in place for several years.
41. Following the June 2017 Regents results, Ms. Lovinsky checked on the status of scheduling additional 504 committee meetings for students at risk of not graduating at

the end of summer after the administration of Regent examinations in August, 2017.

Lovinsky Aff.

42. Ms. Lovinsky determined that the meetings had not been scheduled.
43. She also learned that the District's Director of Family and Student Support Services, Mr. Steven Rappeleya, who would be responsible for scheduling these meetings was on vacation, which meant that there was significant possibility that the meetings may not be able to be held prior to the administration of Regents.
44. Ms. Lovinsky contacted Ms. Simpson and informed her of dire situation.
45. Ms. Simpson contacted Dr. Nicole Williams, the superintendent of schools and informed her of the problem. Lovinsky Aff.
46. Upon information and belief, Ms. Williams immediately contacted Yvonne Palmer, the Director of Instructional Student Support Services and asked her to drop what she was doing and schedule the 504 meetings for those students in the Class of 2017 who were in danger of taking various Regents without the benefit of mandated accommodations. Lovinsky Aff.
47. By law, the District is obligated to set the date for the 504 meetings, coordinate the various schedules of committee members, and then advise the participants of the meeting dates.
48. It is also the District's responsibility to provide all the necessary documents, such as attendance, academic and disciplinary records of the subject students to 504 committee members so that they may make an informed determination. Lovinsky Aff.
49. Unfortunately, what occurred at these 504 meetings in August 2017 is that member representation did not include two teachers, a school social worker, or a school



psychologist with knowledge of the student, the only participants with knowledge were the assistant principal and the parents of the student.

50. Due to summer vacation schedules and the haste in scheduling the meetings, the 504 committee consisted of teachers, the school psychologist, and the school social worker from the elementary level with insufficient knowledge of the student(s).

Lovinsky Aff.

51. Only Ms. Lovinsky had personal knowledge of the students whose cases were discussed at the 504 committee meetings.

52. Compounding the problem with scheduling the 504 meetings, the District failed to provide enough information to the participants. Lovinsky Aff.

53. As of the beginning of the 2017-18 school year, it was common knowledge in Poughkeepsie that the newly elected Board and Dr. Williams had a dysfunctional working relationship after the new members took office on July 1, 2017.

54. Since the change in the Board, upon information and belief, the Board has attempted to wrestle day to day operational control from Dr. Williams, often keeping her uninformed about important operational decisions they were making.

55. For example, on or about July 7, 2017, the Board, without input from Dr. Williams, hired Todd Aldinger Esq. (Mr. Aldinger) under the guise to investigate purported voter fraud that may have occurred during both the 2016 and 2017 Board elections, as well as any other alleged misconduct that the new Board perceived had occurred. See Board Meeting Minutes dated July 7, 2017, a copy of which is attached herein as Exhibit B.

56. Mr. Aldinger's appointment suspiciously occurred **after** Dr. Williams had filed a Commissioner's Appeal involving the Board's usurpation of her authority as both Superintendent and the District's designated Receiver of Schools as approved by NYSED to make involuntary teacher transfers. (Exhibit D)
57. The Commissioner of Education upheld Dr. Williams's Appeal and ruled that she had the sole authority to involuntary transfer teachers in schools under receivership.
58. Upon information and belief, Dr. Williams' successful litigation solidified that she had become a *persona non grata* of the Board, and upon information and belief was a target of removal by the Board.
59. Subsequent mistreatment toward Dr. Williams by the collective Board and certain individual members of the Board caused her to file a Notice of Claim pursuant to Education Law §3813 against the Board for breach of contract, harassment, retaliation and intentional infliction of emotional distress.
60. Mr. Aldinger conducted "investigations" in the shadows directed only by the Board.
61. Evidently, there was no basis to continue with the claimed voter fraud investigation.
62. As a result, Mr. Aldinger changed direction and became to inquiry about what he termed were "improper or questionable graduations" in the 2016/2017 school year. Again, this inquiry was without any involvement of the sitting superintendent or Dutchess County BOCES.
63. Upon information and belief, on or about November 15, 2017, Mr. Aldinger produced a draft document to the Board under the caption "Attorney/Client Privilege" in which he reported to the Board his "findings".

64. It is important to note that Mr. Aldinger is not the District's school law firm (Bond, Schoneck and King, LLP is the duly appointed District law firm) and apparently has no experience in public school education law.
65. Without conducting a full and fair investigation in which all the involved stakeholders were interviewed or without conferring with the regional BOCES, Mr. Aldinger alleged that misconduct occurred regarding the graduation process in a variety of manners.
66. For example, neither Ms. Lovinsky, the social worker, the parents, or the school psychologist who served on those 504 committee meetings were interviewed by Mr. Aldinger.
67. Likewise, neither Ms. Simpson, the Executive Principal of the High School, nor Dr. Williams, the superintendent, were interviewed by him.
68. Upon information and belief, Dr. Williams did not even know of Mr. Aldinger's "investigation" until after his draft report was presented to the Board.
69. However, subsequent review of his incomplete document reveals that Mr. Aldinger apparently arrived at that faulty conclusion after interviewing only two teachers, who were present at certain 504 committee meetings held in August, 2017.
70. Yet, in his report Mr. Aldinger insinuates that Ms. Lovinsky and Ms. Simpson engaged in nefarious misconduct.
71. This preliminary report to the Board was labeled attorney-client privileged and, upon information and belief, was discussed during executive session at the next several board meetings.
72. Mr. Aldinger's investigation was considered to be ongoing according the Board.

73. The day following Mr. Aldinger's presentation of his draft report to the Board on November 15, 2017, Nina Shutzman, a reporter for the Poughkeepsie Journal wrote an article that appeared in the November 16, 2017 edition of the Poughkeepsie Journal. (Exhibit C).
74. Confidential information contained in the report and, upon information and belief, discussed in the Board's executive session the night before (See Lovinsky Aff.) was discussed in Ms. Shutzman's article.
75. This article made reference to the attorney client privileged information contained in Mr. Aldinger's report relating to the attendance records and alleged misconduct on behalf of Ms. Simpson and Ms. Lovinsky.
76. When Dr. Williams learned of Mr. Aldinger's scurrilous allegations of impropriety, she attempted to interview all the individual employees and other people involved, including Ms. Lovinsky and Ms. Simpson.
77. Rather than encourage a full and fair investigation of Mr. Aldinger's claims, the Board directed that Dr. Williams cease her investigation, calling it "unauthorized". (Exhibit E)
78. Given the public disclosure of confidential information derived from the Board executive session and then being denied that right to conduct an appropriate investigation, Dr. Williams and Ms. Simpson, who had obtained a copy of the draft report, sent the draft report of Mr. Aldinger and other supporting documents to NYSED for review and investigation on or about December 2017.
79. NYSED has assigned the investigation into Mr. Aldinger's claims to Cora Stempel, an employee of Dutchess BOCES.

80. Undeterred, the Board and or its members leaked additional confidential information to the media which appeared in December 27, 2017 article in the Poughkeepsie Journal by Ms. Shutzman.
81. Incredibly, Ms. Shutzman wrote that she was supplied a copy of Mr. Aldinger's attorney-client privileged report for her article. See December 27, 2017 article by Nina Shutzman published in the Poughkeepsie Journal, a copy of which is attached herein as Exhibit F.
82. In Ms. Shutzman 's article she reported in minute detail about Mr. Aldinger's interviews and his subsequent "findings".
83. The writer specifically stated that the Board had released the confidential report to the media, based on comments by Dr. Williams' attorney who believed the Board maliciously and willfully engaged in this conduct in an attempt to defame, humiliate, and retaliate against the Superintendent of Schools into resigning. Id. Dr. Watson was also quoted in Ms. Shutzman's Poughkeepsie Journal article publicly stating there were 41 students who possibly did not meet graduation requirements.
84. The article makes clear that this investigation remains ongoing without providing further detail.
85. It is respectfully submitted that the contents of this report and the decision to continue to investigate further constitute confidential information developed during discussions of the Board in executive session.
86. A search of relevant December 2017 Board minutes does not show any discussion of these matters in open session.

87. Moreover, the Board Minutes do not show any Board action relating to authorizing the release of the Aldinger report to the Poughkeepsie Journal or any other media outlet or person.
88. In fact, up until the unauthorized public disclosure of Aldinger's draft report and the subsequent newspaper articles about the confidential information contained in it, there was no public comment during the public session of any Board meeting.
89. The Board's unlawful disclosure of the draft Aldinger report regarding graduation issues was without any legal basis.
90. In addition, Dr. Watson and Ms. Clifford's willful and egregious public disclosure of the confidential report was, in whole or in part, maliciously and politically motivated and intended to malign the competency of Dr. Williams, Ms. Lovinsky, and Ms. Simpson who are cited in the report as allegedly having engaged in misconduct.
91. In the aftermath of repeated illegal public disclosure of confidential information, in the beginning of January, Ms. Lovinsky submitted her resignation.
92. Then, for the first time, Mr. Aldinger contacted Ms. Lovinsky, representing that he was acting on the Board's behalf and requested to interview her about his preliminary report.
93. Ms. Lovinsky considered his offer but declined.
94. Mr. Aldinger then threatened to file a Substantial Question of Moral Character about her, i.e., a "Part 83 referral" (8 NYCRR §§ 83 et. seq.) with the Office of School Personnel Review and Accountability ("OSPRA") for her alleged involvement in his draft findings about the 2017 graduating class unless she cooperated with him and

- provided information against Dr. Williams and Ms. Simpson, who was her direct supervisor. Lovinsky Aff.
95. Mr. Aldinger's coercive conduct was repeated in sum and substance to Ms. Lovinsky's attorney, Wendy DeForge, Esq. (Exhibit N)
96. Notwithstanding the preliminary nature of the incomplete Aldinger report, on or about January 18, 2018, the Board voted in Executive Session to proffer disciplinary charges against Ms. Simpson pursuant to Education Law §3020-a. (SED Case No.: 32659).
97. In accordance with Education Law § 3020-a(2)(a), such disciplinary charges are required to be voted on in Executive Session, not public session to protect the due process rights of the accused.
98. The disciplinary charges were not prepared by the District's superintendent of school or the school law firm, as is customary.
99. Rather, Mr. Aldinger prepared and signed the charges, in which he stated he was seeking Ms. Simpson's termination based upon his contentions set forth draft report.
100. Ms. Simpson was served with the charges on or about January 19, 2018 and promptly requested a hearing.
101. Contrary to law, the Board then collectively publicly disclosed confidential information relating to personnel matters, particularly the employee disciplinary charges involving Ms. Simpson.
102. Specifically, on or about January 22, 2018, the Board convened a special meeting of the Board with the specific willful purpose of publicly voting on the following four resolutions:

(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 Ms. Lovinsky's resignation. (Exhibit G)

103. That same day, January 22, 2018, prior to the scheduled Board meeting, Ms.

Shutzman the Poughkeepsie Journal reporter posted on her personal Facebook page the Board agenda for that night. (Exhibit H)

104. Prior to the Board meeting that night, Board member Clifford was on Ms.

Shutzman's Facebook page and answered a posted question about Ms. Simpson's disciplinary charges. (Exhibit H)

105. Specifically, the post questioned whether the pending confidential 3020-a charges on the meeting's agenda related to student attendance.

106. Ms. Clifford responded by improperly correcting that assumption and illegally disclosing "No. Didn't meet attendance requirements and still graduated. Among other things" relating to the pending disciplinary charges. (Exhibit H).

107. Ms. Clifford could have only obtained such confidential information from Executive Session when Mr. Aldinger's charges were provided to the Board for consideration and voting.

108. It is unclear whether the improperly voted disciplinary charges against Ms. Simpson by the Board in a 3 to 2 vote in public session on January 22, 2018, are the



same disciplinary charges she had been received on January 19, 2018 and had requested a hearing on.

109. Respondents Clifford and Watson were two of the three Board members who improperly voted in public session to bring disciplinary charges against Ms. Simpson.
110. In public session, while the Board nor its individual members explicitly referred to Ms. Simpson by name or her title, the juxtaposition of the Board's later resolution naming an Acting Executive High School Principal in Ms. Simpson's absence left no doubt to anyone in Poughkeepsie that Ms. Simpson was the employee subject to discipline based on this public display.
111. Public disclosure of the contents of disciplinary charges violates Education Law §3020-a(3)(c)(1)(C), Board Policies Nos. 2160 and 2330 which sets forth the confidentiality requirements of Board members, especially relating to executive session information and further warrants the removal from office of any board member violating the confidentiality requirements.
112. Removal from office is also authorized pursuant to Policy No. 2140, which allows the Commissioner of Education to remove any 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."
113. Upon information and belief, Ms. Clifford knowingly, willfully and maliciously disclosed the substance of Ms. Simpson's disciplinary charges because of her personal dislike for Ms. Simpson, who she perceived to be aligned with Dr. Williams.
114. Ms. Clifford's misconduct here also violated Ms. Simpson's exclusive due process right to keep her disciplinary matter private in retaliation for several public

disagreements they had concerning Ms. Clifford's interests and representation of the District, both while running as a candidate for the Board of Education and after she was elected to the Board in the Spring 2017.

115. Before the January 22, 2018 Board meeting, Ms. Lovinsky attempted to rescind her resignation, but the Board voted and accepted her resignation at that meeting.

(Lovinsky Aff.; Exhibit L)

116. In an unprecedented act, at the same meeting, the Board provided the Poughkeepsie Journal reporter Ms. Schutzman with a press release authored by Dr. Watson which impermissibly identified Ms. Simpson as the employee placed on paid leave. (Exhibit O)

117. Regardless, the basis of Dr. Watson's knowledge of Ms. Simpson's leave of absence set forth in her press release was acquired by confidential information she learned in Board executive session.

118. In the past, the District had declined to identify by name any employee who have been placed on administrative leave on that basis stating that such information constituted confidential personnel information. (Exhibit P)

119. Disclosing that Ms. Simpson was the employee placed on administrative leave that night, which fact was directly associated with the Board's vote to pursue disciplinary charges against an employee, unlawfully disclosed Ms. Simpson's identity, thereby violating Education Law §3020-a(3)(c)(1)(C), and Board Policy Nos. 2160 and 2330 and warrants both Watson and Clifford's removal.

120. Upon information and belief, Dr. Watson made this disclosure of the basis of the disciplinary charges knowingly, willfully and maliciously in order to violate Ms.

Simpson's exclusive right to keep the disciplinary matter private in retaliation for her 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.

121. Ms. Schutzman promptly posted the press release on her Facebook page. (Exhibit O)

122. Over the next twenty-four hours, a flurry of articles were published in the media that unequivocally identified Ms. Simpson as the employee being charged pursuant to Education Law §3020-a and being placed on administrative leave during the pendency of such charges. (Exhibits Q and R)

123. As Ms. Simpson had not elected to have a public 3020-a hearing, the public voting of the charges and the press release identifying her as the employee placed on administrative leave violated her rights to confidentiality during the pendency of the hearing in accordance with Education Law §3020-a(3)(c)(1)(C).

124. On February 12, 2018, in further violation of Ms. Lovinsky and Ms. Simpson's rights to confidentiality, it was learned that the Board and District released unredacted notes and findings of conclusion and questions of fact concerning the underlying investigation that forms the basis of Ms. Simpson's disciplinary action to Poughkeepsie Journal reporter Nina Schutzman. (Exhibit S)

125. These papers specifically accuse the Petitioners by name of misconduct, incompetence and lying in great detail and recommends that Ms. Simpson be disciplined for the reasons set forth in the documents.
126. Disclosing these unredacted reports to the media violates Ms. Simpson's exclusive right under Education §3020-a(3)(c)(1)(C) and has seriously impeded her due process rights, as well as caused irreparable harmed to her reputation and presumption of innocence in the hearing.
127. Such disclosures have negatively impacted and damaged Ms. Simpson's career, reputation and potentially her ability to have a fair and impartial hearing.
128. Any and all damage to Ms. Simpson is solely the fault of the District vis-à-vis the unauthorized disclosures and actions of Dr. Watson and Ms. Clifford.
129. Simultaneously with all of the above actions Bobby Watson, the brother of Board of Education President Dr. Watson, has been attempting to garner public support for a charter school in Poughkeepsie. (Exhibit M)
130. It is alleged that the District first attempted to undermine the graduation rates by failing to schedule appropriate meetings. Lovinsky Aff.
131. It is also alleged that when that did not work the Board then hired an attorney to do its bidding and to investigate matters the Board deemed appropriate without consulting with Superintendent Williams.
132. The Board is now attempting to allege that the graduation increase is nonexistent claiming that several students graduated illegally.
133. For some unknown reason, the current Board is clearly manipulating the facts to make it look like the District was failing by willfully and maliciously disclosing the

incomplete findings of a confidential preliminary draft report and personnel issues discussed in executive session to the public. It is respectfully submitted that such misconduct is motivated to promote community support for the charter school.

134. If the Board had been acting in the best interest of the community none of the matters that are now common public knowledge would have been disclosed and all issues would have been thoroughly investigated under the auspices of NYSED and handled appropriately in accord with the law and Board policy.
135. There is no reason other than self-gain for Dr. Watson and Ms. Clifford to disclose confidential information.

**AS AND FOR A FIRST GROUND FOR APPEAL**

136. Petitioner reasserts and realleges each and every allegation contained within Paragraphs 1-135 as if fully contained herein.
137. The District Board Policy 2160, which has the effect of local law, prohibits the public dissemination of confidential information discussed during executive session.  
(Exhibit J)
138. Pursuant to this Policy, the penalties for disclosing confidential personnel information include suspension, fine and /or removal from the Board.
139. Board member's Clifford and Watson improperly publicly disseminated confidential information as set forth herein in an attempt to harass, annoy, and/or harm Ms. Lovinsky, Ms. Simpson and Dr. Williams, among others.
140. Specifically, Ms. Clifford disclosed the basis for the 3020-a charges against Ms. Simpson on the social media page of a reporter, even though Ms. Simpson has not

exercised her exclusive right to make the hearing and underlying allegations public, instead of the statutory presumption that it will be private.

141. Dr. Watson disclosed the fact that Ms. Simpson was the employee on administrative leave shortly in the very same meeting in which the Board illegally voted in public session to charge Ms. Simpson under Education Law §3020-a and place her on administrative leave in the same resolution, even though Ms. Simpson has not exercised her exclusive right to make the hearing and underlying allegations public, instead of the statutory presumption that it will be private.

142. The Respondents, by and through the District, released confidential reports and notes to the media specifically accusing the Petitioners by name of misconduct, negligence and/or incompetence without providing them with due process and, in willful violation or neglect of duty, disobedience of a lawful requirement of the Commissioner and other acts in accordance with law.

143. The actions and omissions of Board members Watson and Clifford warrant their removal from the Board of Education under both Policy Nos. 2160 and 2140, which have the effect of local law and set forth the Commissioner's ability 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," which the aforementioned conduct by the Respondents undoubtedly constitute.

**AS AND FOR A SECOND GROUND OF APPEAL**

144. Petitioner reasserts and realleges each and every allegation contained within Paragraphs 1-143 as if fully contained herein.

145. As public officers, the Respondents have taken an oath of office to uphold the law and faithfully discharge their duties. *N.Y. State Const. Art. XII, §4; Public Officers Law §10.*
146. Pursuant to General Municipal Law §805-a, no municipal employee or officer, including a Board member, shall “disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.” *Appeal of Whalen*, 34 Ed. Dept. Rep. 282 (1994); *Application of the Bd. Of Educ. Of the Elmont UFSD*, 48 Ed. Dept. Rep. 29 (2008); *Appeal of Nett*, 45 Ed. Dept. Rep. 259 (2005); *Appeal of Hoefler*, 45 Ed. Dept. Rep. 66 (2004).
147. Upon information and belief, Respondent obtained confidential personnel information about the Petitioners in executive session, during the course of their official duties for the purpose of determining if there was misconduct regarding the graduation of students during the 2016/2017 school year.
148. Respondents willfully, egregiously, and improperly disclosed this confidential information to the news media and on social media.
149. Upon information and belief, Respondents willful, egregious and improper disclosure of Petitioner’s confidential personnel information was, in whole or in part, to further their personal agenda of harassment and retaliation against the Superintendent and those associated with her, including the Petitioners.
150. Pursuant to Education Law §306, a member of the board of education may be removed from office for a violation of the laws, rules or regulations of the State of New York, including disclosure of confidential information obtained during Executive Session. *Appeal of Whalen*, 34 Ed. Dept. Rep. 282 (1994); *Application of*

*the Bd. Of Educ. Of the Elmont UFSD*, 48 Ed. Dept. Rep. 29 (2008); *Appeal of Nett*, 45 Ed. Dept. Rep. 259 (2005); *Appeal of Hoefer*, 45 Ed. Dept. Rep. 66 (2004).

151. Pursuant to Board Policy Nos. 2160(IV) and 2330, Board members are not permitted to disclose information learned in Executive Session relating to “information relating to a current or future investigation...”, “discussion regarding proposed, pending or current litigation,” and “...matters leading to the appointment or employment or promotion or demotion or discipline or suspension or removal of a particular person.”
152. The disclosures of Dr. Watson and Ms. Clifford are subversive, willful violations or neglect of duty and/or disobedience of a lawful requirement of the Commissioner and other acts in accordance with law and warrant their removal from the Board of Education as a matter of law.

#### **AS AND FOR A THIRD GROUND OF APPEAL**

153. Petitioner reasserts and realleges each and every allegation contained within Paragraphs 1-152 as if fully contained herein.
154. Pursuant to Education Law §3020-a(2)(a), 8 NYCRR §82-3.3 and Board Policy No. 2330, disciplinary charges are to be voted on by the Board in Executive Session, not public session.
155. Pursuant to Education Law §3020-a(3)(c)(1)(C) and 8 NYCRR § 82-3.8(3) the right to make a disciplinary charges public and not private lies solely with the employee, not the employer.
156. Ms. Simpson has not exercised her unilateral right to have a public hearing on the disciplinary charges.



157. By announcing that Ms. Simpson was the employee on administrative leave within the press release, Dr. Watson violated Ms. Simpson's unequivocal and unilateral right to keep the hearing and the charges private pending the outcome of the 3020-a process.
158. By commenting on Facebook as to the reasons for the charges, Ms. Clifford violated Ms. Simpson's unequivocal and unilateral right to keep the hearing and the charges private pending the outcome of the 3020-a process.
159. By releasing unredacted reports accusing Ms. Simpson of lying, neglect of duty, incompetence and negligence and recommending disciplinary action based upon such, to the media, Respondents Clifford and Watson violated Ms. Simpson's unequivocal and unilateral right to keep the hearing and the charges private pending the outcome of the 3020-a process.
160. Upon information and belief, the only possible motivation for voting on the disciplinary charges against Ms. Simpson in public session, after they were already voted on in executive session at a previous Board meeting, was to embarrass and cause direct harm to her with malicious intent.
161. By releasing unredacted reports accusing Ms. Simpson of lying, neglect of duty, incompetence and negligence and recommending disciplinary action based upon such, to the media, Respondents Clifford and Watson violated Ms. Simpson's right to procedural due process.
162. Accordingly, the actions of Dr. Watson and Ms. Clifford warrant their removal from the Board of Education.

**AS AND FOR A FOURTH GROUND OF APPEAL**

163. Petitioner reasserts and realleges each and every allegation contained within Paragraphs 1-162 as if fully contained herein.
164. Pursuant to Education Law § 3020-a(2)(a), 8 NYCRR § 82-3.3 and Board Policy 2330, disciplinary charges are to be voted on in Executive Session, not public session.
165. Pursuant to Education Law §3020-a(3)(c)(1)(C) and 8 NYCRR §82-3.8(3) the right to make a disciplinary charges public and not private lies solely with the employee and not the employer.
166. Ms. Simpson has not exercised her unilateral right to have a public hearing on the disciplinary charges.
167. By announcing that Ms. Simpson was the employee on administrative leave within the press release, Dr. Watson violated Ms. Simpson's unequivocal and unilateral right to keep the hearing and the charges private pending the outcome of the 3020-a process.
168. By commenting on Facebook as to the reasons for the charges, Ms. Clifford violated Ms. Simpson's unequivocal and unilateral right to keep the hearing and the charges private pending the outcome of the 3020-a process.
169. By releasing unredacted reports accusing Ms. Simpson of lying, neglect of duty, incompetence and negligence and recommending disciplinary action based upon such, to the media, Respondents Clifford and Watson violated Ms. Simpson's unequivocal and unilateral right to keep the hearing and the charges private pending the outcome of the 3020-a process.

170. Upon information and belief, the only possible motivation for voting on the disciplinary charges against Ms. Simpson in public session, after they were already voted on in executive session at a previous Board meeting, was to embarrass and cause direct harm to her with malicious intent.

171. Accordingly, the actions of Dr. Watson and Ms. Clifford warrant the dismissal of the improper 3020-a charges against Ms. Simpson, as well as her immediate reinstatement as Executive Principal of Poughkeepsie High School.


**WHEREFORE,** Petitioners respectfully requests:

1. An immediate stay of the Education Law §3020-a hearing against Ms. Simpson pending the outcome of the instant Appeal and NYSED investigation; and
2. Removal of Board members Watson and Clifford, pursuant to Education Law §306 and applicable Board Policies, for violating the Poughkeepsie City School District's Board Policies 2140, 2160 and 2330, as well as General Municipal Law §805-a, N.Y. State Const. Art. XII, §4, Public Officers Law §10, and Education Law § §306, 3020-a(2)(a), 3020-a(3)(c)(1)(C) and 8 NYCRR §§ 82-3.3, 82-3.8(3); and
3. Immediate dismissal of the 3020-a charges against Ms. Simpson; and
4. Immediate reinstatement of Ms. Simpson as the Executive Principal of Poughkeepsie High School; and
4. Such other relief as the Commissioner deems just and proper.

Dated: February 14, 2018  
Latham, New York

Respectfully Submitted,

SCHOOL ADMINISTRATORS ASSOCIATION  
OF New York STATE  
Office of General Counsel  
Arthur P. Scheuermann

  
By: Wendy S. DeForge, Counsel  
8 Airport Park Boulevard  
Latham, New York 12110  
(518) 782-0600

TO: Doreen Clifford  
Vice President of the Board of Education  
Poughkeepsie City School District  
182 South Grand Ave.  
Poughkeepsie, New York 12603

Felicia Watson  
President of the Board of Education  
Poughkeepsie City School District  
Felicia Watson  
11 Squires Gate  
Unit F  
Poughkeepsie, New York 12603

Victoria Jackson- District Clerk  
Poughkeepsie City School District  
11 College Ave.  
Poughkeepsie, NY 12603

**COMMISSIONER OF EDUCATION  
STATE OF NEW YORK**

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

**VERIFICATION**

**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**

**-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  
COUNTY OF ALBANY

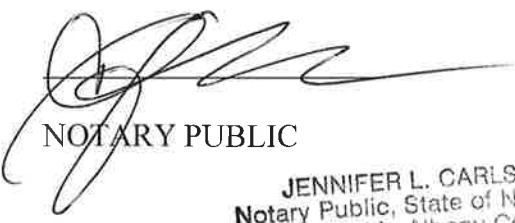
JESSICA LOVINSKY, being duly sworn states and affirms that, I am the Petitioner in the above-captioned matter. I have read the foregoing Verified Petition. The matters stated in the Petition are true of my own knowledge except those matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Date: February 14, 2018

  
\_\_\_\_\_  
JESSICA LOVINSKY

Sworn to me this 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, 2029

COMMISSIONER OF EDUCATION  
STATE OF NEW YORK

\_\_\_\_\_<sup>X</sup>  
IN THE MATTER OF THE APPLICATION OF  
JESSICA LOVINSKY and PHEE SIMPSON,  
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VERIFICATION

FOR THE REMOVAL OF DOREEN CLIFFORD  
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DISTRICT

RESPONDENTS.

\_\_\_\_\_<sup>X</sup>

STATE OF NEW YORK  
COUNTY OF ALBANY

PHEE SIMPSON, being duly sworn states and affirms that, I am the Petitioner in the above-captioned matter. I have read the foregoing Verified Petition. The matters stated in the Petition are true of my own knowledge except those matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Date: February 14, 2018

  
PHEE SIMPSON

Sworn to me this 14 day of  
February, 2018

  
NOTARY PUBLIC

JENNIFER L. CARLSON  
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