

In The Matter Of:
The State of Delaware Department of Education
In Re: Academy Of Dover

Hearing
May 19, 2015

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STATE OF DELAWARE
DEPARTMENT OF EDUCATION
CHARTER SCHOOL OFFICE

In the Matter of:)
)
ACADEMY OF DOVER)

The Townsend Building
401 Federal Street
Dover, Delaware 19901

Tuesday, May 19, 2015
5:00 p.m.

BEFORE:

JENNIFER NAGOURNEY,
Hearing Officer

ALSO PRESENT:

DONNA JOHNSON,
Executive Director
State Board of Education

ILONA M. KIRSHON, ESQ.
Deputy Attorney General for the State
Board of Education

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1 MS. NAGOURNEY: For those who
2 have not been at a public hearing before, I'm
3 Jennifer Nagourney, the hearing officer for
4 tonight.

5 Just a few procedural things we
6 need to get on the record. I'll be reading
7 from a script. At some point later on into the
8 script, I'll open the floor to speakers, and
9 the school representatives will speak first and
10 then anyone else who wants to comment.

11 Good evening. I declare this
12 public hearing to be open. My name is Jennifer
13 Nagourney. I am the Executive Director of the
14 Charter School Office at the Delaware
15 Department of Education, and I have been
16 appointed by the Secretary of Education to
17 conduct this public hearing.

18 The Charter of Academy of Dover
19 was placed on formal review by the Department
20 of Education with the assent of the State Board
21 of Education. As required by law, the matter
22 was referred to the Charter School
23 Accountability Committee, which has issued an
24 initial report on this matter.



1 This joint public hearing is
2 being held by the Department of Education and
3 the State Board of Education to assist in the
4 decision of whether the criteria set forth for
5 remedial action in the Delaware Code have been
6 satisfied. This hearing provides the school
7 with an opportunity to receive public comment.
8 I will now ask the others with me today to
9 introduce themselves.

10 MS. JOHNSON: Donna Johnson,
11 Executive Director, State Board of Education.

12 MS. KIRSHON: Ilona Kirshon,
13 Deputy Attorney General, and I'm serving as
14 counsel to this Board meeting tonight.

15 MS. NAGOURNEY: I would like the
16 record to reflect that the notice of the time,
17 date and place of today's public hearing was
18 published in The News Journal and the Delaware
19 State News.

20 In addition, notice was posted at
21 the Charter School Accountability Committee's
22 official place of business, on the Department
23 of Education's official Web site, and on the
24 State public meeting calendar on the State's



1 official Web site. Further, the school was
2 personally notified of the time, date and place
3 of today's public hearing.

4 A court reporter is present so
5 that an accurate record of this hearing can be
6 made. It will be necessary for each speaker to
7 clearly identify himself or herself before
8 beginning to speak so that the court reporter
9 will be able to note who you are. The record
10 of this hearing will be provided to the
11 Secretary of Education and the members of the
12 State Board of Education, together with any
13 written or electronic comments received at or
14 before this hearing.

15 We will proceed in the following
16 manner. First, we will hear from any
17 representatives of the Charter who wish to
18 comment. Then we will take comments from
19 anyone else who desires to speak. There are
20 sign-up sheets at the back of the room, which I
21 will go and get now. I have all of the
22 attendees on the sheet, and one speaker who
23 indicated that they wish to speak.

24 I intend to be as liberal as time



1 and reason allow in accepting comments.
2 However, I do reserve the right to limit
3 comments if it is purely repetitive or
4 cumulative. I do not see that being a problem
5 in this case with only one speaker. And at
6 this point we will accept comments from
7 representatives of the school.

8 MS. WAGNER: Thank you. My name
9 is Nancy Wagner. I'm the Vice President of the
10 Board. The President, Kimeu Boynton, could not
11 be here tonight and he sends his regrets that
12 he could not.

13 I want to give you some
14 additional information. Several of these
15 issues, mainly being the Mosaica issue that
16 we're dealing with, I talked to the attorney
17 this morning. Donna, you weren't here at the
18 other meetings, so just to sort of bring you
19 up-to-date --

20 MS. JOHNSON: No, I read it all.

21 MS. WAGNER: Okay. We are in
22 contact with a representative of the Mosaica
23 people. The conversation is going back and
24 forth well. They seem to not understand a lot



1 about finances for education. For example,
2 they want to know why they can't have the
3 cafeteria money, and they want to know why they
4 can't have the -- what's left of the
5 consolidated grant. It's my understanding that
6 this is thirdhand, because I'm not the attorney
7 and I wasn't in the conversation, but the
8 attorney at the law firm has contacted DOE to
9 say, We need language from someone here -- and
10 I don't know who they've been in contact
11 with -- to help these folks understand these
12 are not pots of money that you can just say
13 that could be used to pay off this debt, which
14 leads me to believe that probably we're talking
15 to someone who is not necessarily in the middle
16 of Mosaica because I think they would
17 understand the budgets of a school. One would
18 hope so, being as they attempt to run the
19 school. So I'm not sure yet -- I personally am
20 not sure whether it's someone who is with
21 Mosaica or someone outside that is simply
22 following up. But we are talking. It is our
23 intent to settle. We have made it very clear
24 that we have offered what is available, you



1 know, to settle. We expect that they will,
2 with the language from you all -- and, again,
3 I'm not sure who they contacted here -- that
4 they will hopefully be back in touch with us
5 and we can get this settled. That is our goal.

6 Just a little bit of background
7 to make sure that it's clear on the record.
8 This is not anything that we were not aware of;
9 this is not anything that this Board or anyone
10 at the school now had any part of. The
11 Department of Education has known from the very
12 beginning that this was an issue. It was part
13 of our re-charter five, six years ago, and it
14 was an addendum to the re-charter we've done a
15 couple of years ago.

16 There simply was no way to solve
17 this, and it got more convoluted and more
18 impossible when the deal of promissory notes
19 came in. It's not normal that one would deal
20 with promissory notes for a charter school.
21 And that was the action of the Board at that
22 point of the people that set up this charter
23 school.

24 During this entire time that I've



1 been on the Board and I know up until that
2 time, the Board has attempted to try to settle
3 something with Mosaica and we have never been
4 able to be successful. One being, we didn't
5 really have any money to pay anything off, and
6 another being that they just seemed to not want
7 to deal with whatever we could try to figure
8 out. So there's a little bit of money that has
9 been left now because we had -- we're very
10 careful and we've been able to have a larger
11 carryover, exactly what we need for salaries.
12 So that is what has piqued their interest.
13 Every year we would send them the budgets for
14 the school, end of year, and if you would look,
15 it's fairly simple that they've now seen that
16 they think there's some money. And so
17 unfortunately, this has moved along in the
18 legal end of it, so we have gotten to a
19 garnishment. So that's where we are, but we
20 have made every attempt to settle this. The
21 former head of school worked very hard to try
22 to get this settled, and he had many
23 conversations with them and tried to persuade
24 them to see if there was any way we could work



1 anything out. So this is not something we have
2 not been aware of, and that I think is the most
3 important thing you need to hear from us
4 tonight.

5 In terms of the other things, I
6 think we're getting information in to you. I
7 do want you to -- and I understand the Mosaica
8 piece is paramount. I mean, first and foremost
9 I understand it.

10 I simply would like to say that
11 if that is solved, and it's my goal that they
12 will be solved, what you have here is a very
13 good little charter school who is educating
14 kids in a happy environment. They are moving
15 forward. It is very organized. The leadership
16 today is wonderful. The morale of the teachers
17 is excellent. We have had teachers come to
18 that school this year leaving larger school
19 districts and larger salaries because they just
20 wanted to come to this charter school. It is
21 a school that is mainly a large percentage of
22 minorities, a large percentage of low
23 socioeconomic, and they really get a lot of
24 attention that they might not get in a bigger,



1 larger school district.

2 So it's very important that we
3 look and see what this school is in addition to
4 there's this issue. The school is running fine
5 now. The finances are in fine order. We have
6 taken care of all the issues that were
7 associated with that. We are still waiting for
8 the auditor. We do not have an audit report
9 yet.

10 Have you gotten one? Maybe. I
11 don't know. We haven't gotten one.

12 MS. NAGOURNEY: We're not allowed
13 to answer questions.

14 MS. WAGNER: Well, anyway, that's
15 a rhetorical question, have you gotten one, but
16 we have not yet gotten anything official. So
17 in terms of the running of a school that
18 educates about 300 kids a year and gives them a
19 longer school year, because we open in August,
20 early August. So they have much more time in
21 school than a regular much larger school
22 district would. You have a fine little school
23 here. Now, the goal is to try to solve these
24 problems so we can continue on. That's all I



1 have.

2 MS. NAGOURNEY: Thank you.

3 Is there anyone else who wishes
4 to speak?

5 MS. JOHNSON: Are there documents
6 that you wanted to submit?

7 MS. WAGNER: Well, I just was
8 going to show you -- I think you've seen them.
9 They're just the budgets. You probably have
10 them already.

11 MS. NAGOURNEY: If it's something
12 you've submitted with the formal review --

13 MS. WAGNER: You've got it. I
14 mean, I was just going to point out, this is
15 what he was looking at. It's a budget at the
16 end of every year and he could see this
17 cafeteria money, and so that's what they jumped
18 on, I think, initially. And then it kind of
19 wound its way through the courts and we are
20 where we are.

21 MS. JOHNSON: We don't actually
22 have the budget in that record, if she wants to
23 submit that.

24 MS. WAGNER: I can give you these



1 two.

2 This is the one showing '13,
3 6/13, and this is 6/14.

4 MS. NAGOURNEY: These are
5 three --

6 MS. WAGNER: It's the end-of-year
7 budgets for fiscal '13, '14, and then it's the
8 monthly budget, the last monthly budget for
9 fiscal '15. Because if you look at the one for
10 March, you can see we're doing very, very well.
11 And if you look at the percentages at the end
12 of how much is expended per budget line, and
13 we're in very good shape to get to the end of
14 the year this year.

15 MS. NAGOURNEY: Madam Court
16 Reporter, should we mark these as exhibits?

17 COURT REPORTER: Yes.

18 MS. WAGNER: Thank you.

19 MS. NAGOURNEY: Thank you.

20 Next speaker.

21 MS. NEAL: Hi, my name Sabine
22 Neal. I'm a parent at Academy of Dover. My
23 children -- two of my children attend there.
24 And I'm here today because -- sorry. I'm



1 nervous. I'm here to stand up for my son.

2 He was the child that was abused
3 at the Academy of Dover. He is a six-year-old
4 kindergarten special needs student who I asked
5 for an evaluation for in August from the
6 school. I did not receive any evaluations
7 until November, and I was not notified he was
8 going to be evaluated. I found out because he
9 came home nervous. I submitted his autism
10 diagnosis; I submitted his ADHD diagnosis.

11 I was told that they could not do
12 anything with the ADHD diagnosis until he had
13 been at the school for six months. The autism
14 diagnosis, I was told that since he was only
15 two, two-and-a-half, that it was too old, so I
16 needed a new one.

17 They knew he had issues. I asked
18 for help and problems escalated throughout the
19 year. He's autistic. He does not deal well
20 with change. Issues occurred in a row
21 throughout the year. He's been suspended
22 multiple times, but he's not a bad child. He
23 is six. I've tried everything with the school.
24 I set up to get him reevaluated. Getting into



1 a neurologist takes a lot of time. I went to a
2 neurologist; my insurance dropped that
3 neurologist, so I had to go to Delaware Autism
4 Program as the school suggested. I got him
5 rediagnosed again. Again, he's not eligible.

6 I never had a meeting. They
7 never said anything. I was just told by the
8 behavior interventionist that he was not
9 eligible.

10 There's obviously something going
11 on if my child has problems in school. And
12 that day that his teacher kicked him in the leg
13 and bruised him, that is when it all
14 culminated. She was frustrated. I have no
15 doubt in my mind, but the school should have
16 done something prior to that because my child
17 should not have been abused.

18 I was called at 12:30 to come to
19 the school to speak with the principal and a
20 couple of other people. I know the behavior
21 interventionist but I don't know what the other
22 guy's position is. And they told me what
23 happened. They said -- I asked what the
24 punishment was for her, and they said, She has



1 already left, but we can't discuss; she's been
2 dealt with properly.

3 He remained at the school for the
4 rest of the day. When I went to pick him up at
5 three o'clock, the teacher was coming out of
6 the building at three o'clock.

7 Later in the week, she attended
8 the teacher appreciation dinner, which who
9 appreciates a teacher who abuses somebody and
10 it's seen on camera. She admitted to doing it.

11 The school never called the
12 police or anything. I called DFS who then said
13 it wasn't a family matter, so they would have
14 to report it to the police.

15 Now, he's in kindergarten, and
16 that sets up a lifelong issue. If you have
17 problems when you're that little, do you think
18 you would want to continue to school for the
19 rest of your life? No. That's horrible. He
20 should never have gone through that. There's
21 no responsibility; nobody is taking
22 responsibility for it. They're just saying,
23 Oh, you know, we suggest that she be fired, but
24 that wasn't even it. She only got suspended



1 for a week. I doubt they were going to
2 actually fire her.

3 But I'm just here to let you know
4 that I'm standing up for my son and every other
5 child in special needs that's not getting the
6 services they deserve.

7 MS. NAGOURNEY: Thank you.

8 Is there anyone else who wishes
9 to speak?

10 MS. MARSHALL: Cheri Marshall.
11 I'm the head of school.

12 I just wanted to touch on what
13 Ms. Neal had said. I don't know if I could do
14 a rebuttal, but we are aware that she has filed
15 a formal complaint with the Department of
16 Education and it is being investigated. We are
17 working on our response.

18 I took over this position at the
19 beginning of February. At that time it was
20 brought to my attention all the concerns that
21 we had for the student. The school has proper
22 documentation and evidence that we have
23 followed the law accordingly. He was
24 evaluated. He did not qualify for an IEP. He



1 is on a 504 for transition into the building,
2 and the only autism documentation that we have
3 was from -- I believe the date is April the 2nd
4 or March the 2nd, March or April, and that was
5 from the Autism Spectrum Support Group.

6 Other than that, our psychologist
7 has evaluated him. He did not qualify for an
8 IEP. We are following the 504 as it is only
9 for transition into the building.

10 Now, my staff, my behavior
11 interventionist, my classroom teachers have
12 gone above and beyond to help this child, to
13 help and work with mom. We have done what we
14 can to help.

15 This child has several times
16 caused harm to other students and to our staff,
17 and there were sometimes that he was suspended
18 because there is no documentation saying that
19 this is happening because of his behavior. He
20 has a 504 for transition.

21 So I just wanted to put that out
22 there that Academy of Dover has done what they
23 need to do to provide and gone above and beyond
24 to help the student and to help mom, and we



1 will continue to do what we need to do to help
2 mom and to help the student because education
3 is our number one priority. Thank you.

4 MS. WAGNER: If I can just add
5 something. At this point the teacher is no
6 longer with the school.

7 MS. NAGOURNEY: Please come
8 forward.

9 Can we take a pause for just a
10 moment?

11 MS. JOHNSON: We need to consult
12 with our counsel.

13 MS. WAGNER: Okay.

14 (Discussion held off the record.)

15 MS. NAGOURNEY: Okay.

16 MS. WAGNER: I just want to add,
17 if you didn't hear it before, the teacher is no
18 longer with the school.

19 MS. NAGOURNEY: Any further
20 comments?

21 MR. OHLANDT: My name is Kevin
22 Ohlandt, O-H-L-A-N-D-T.

23 I just wanted to comment in
24 regards to the ex-head of school, Noel



1 Rodriguez. I had heard from several
2 individuals last fall that he had been
3 terminated. I do write a blog. I wrote an
4 article about that. I did reach out to
5 Ms. Marshall to clarify that, and I just wanted
6 to say that she emphasized that he resigned,
7 which is contradictory to what was said at the
8 meeting last week that he was removed; I
9 believe it was physically removed from the
10 building. As well, I have heard from several
11 parents in the Dover area about special
12 education issues at this school, as well as
13 teacher certification issues. I do know there
14 is some backlog with the Deeds Program.

15 I've heard an example of a
16 janitor becoming a paraprofessional, and if I'm
17 not mistaken, I think that needs to be a test
18 that that individual would need to take. So I
19 would strongly urge the DOE to make sure all
20 the teachers at that school are certified
21 during this formal review. Thank you.

22 MS. WAGNER: Nancy Wagner again.

23 In reference to someone who is
24 now a paraprofessional, she has passed the



1 test. She is now certified as a
2 paraprofessional. So that's not an issue.

3 She did previously work as a
4 janitor in the school. She is now certified,
5 as she was before she took the paraprofessional
6 position.

7 I did not last week mention the
8 name of the former head of school. I
9 repeatedly referred to this person as the
10 former head of school. I had an attorney here
11 beside me to make sure that is what I said.

12 I did not say he was removed from
13 the school. What I said was, we took the
14 telephone, his credit card, the stuff as the
15 attorney had requested that we do, to look into
16 issues and then he was put on administrative
17 leave at that point, and he left the school.
18 He was not physically removed. He was not
19 thrown out and pushed. He was not fired. He
20 subsequently resigned his position and the
21 school accepted his resignation.

22 MS. NAGOURNEY: Any further
23 comments?

24 Okay. If not, this hearing is



1 now closed. I want to thank you all for coming
2 and participating today. The transcript and
3 your comments will be prepared and should be
4 delivered and posted on the Web site by Friday;
5 if not, early Monday.

6 The Secretary will consider your
7 comments as part of the decision-making
8 process, and your comments will also be
9 available for the State Board to consider.

10 Thank you very much.

11 MS. WAGNER: Thank you.

12 (Hearing adjourned at 5:30 p.m.)

13 (Exhibits 1, 2 and 3 were marked
14 for identification.)

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1	E X H I B I T S		
2	EXHIBIT	DESCRIPTION	PAGE
3	Exhibit 1	Academy of Dover	21
4		Charter School	
5		Budget FY15 as of	
6		March 31, 2015	
7	Exhibit 2	State of Delaware	21
8		Department of Finance	
9		Division of Accounting	
10		Daily Validity Report	
11		as of 6/30/14	
12	Exhibit 3	State of Delaware	21
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15		Daily Validity Report	
16		as of 6/30/13	
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1 State of Delaware)
2)
3 Sussex County)
4
5

6 CERTIFICATE OF REPORTER

7 I, Vera T. Sitze, a Notary Public and
8 Registered Professional Reporter, do hereby
9 certify that the foregoing is an true and
10 correct transcript of the proceeding held at
11 the time and place stated herein, and that the
12 said proceeding was taken down by me in
13 Stenotype notes and thereafter transcribed by
14 use of computer-aided transcription and
15 computer printer under my direction.

16 I further certify that I am not
17 counsel, attorney, or relative of either party,
18 or otherwise interested in the event of this
19 suit.

20
21
22 

23 Vera T. Sitze, RPR
24

My commission expires July 31, 2016



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