

District says it can withhold details

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All three of those FOIL requests were denied, but in July Mr. Santomero appealed Bedford Central's denial, which in August was also rejected by the district.

In his request for judicial intervention, Mr. Santomero filed a 52-page petition in the form of an Article 78 proceeding in Westchester County Supreme Court. That petition claims the district's refusal to release the requested documents was "arbitrary, capricious and constitutes an abuse of discretion."

Among other arguments, the petition challenged the board's claim that releasing the documents would result in an unwarranted invasion of privacy. The dispute "encompasses facts and circumstances that go well beyond the mere personal privacy interests of Dr. Jackson," the petition states, and "implicates public policy considerations involving expenditure of substantial taxpayer funds."

This month, the district and its law firm, Keane and Beane, filed a memorandum of law in opposition to Mr. Santomero's petition, outlining why the court challenge to the district's FOIL denial should be rejected.

"Case law and advisory opinions issued by the New York State Committee on Open Government uniformly hold that records relating to non-final and/or unsubstantiated disciplinary charges against a public employee may be withheld from disclosure under FOIL based upon intra-agency and privacy exemptions," the district's court papers state. "Accordingly, the board of education's denial of petitioner's FOIL appeal on these grounds was entirely appropriate and should not be disturbed."

Bedford Central's defense of its actions is based on the position that since Dr. Jackson reached an agreement with the board before any disciplinary charges against her could be formally filed, the exact nature of any of those charges, and the resulting dispute over them, are not covered by what must be released under FOIL.

"Because the disciplinary charges

were never formally served upon Dr. Jackson and no final determination was ever rendered upon them, the board of education concluded that it was not required to disclose the charges under FOIL," Ms. Wollin stated in her affidavit.

The district's attorneys further state in the memo of opposition that the purpose of FOIL's intra-agency exemption is "to permit people within an agency to exchange opinions, advice and criticism freely and frankly, without the chilling prospect of public disclosure."

While Mr. Santomero's filing claims that the Bedford Central board failed to demonstrate that the requested documents are intra-agency material and therefore exempt from FOIL, the district's attorneys cite specific reasons why the materials are protected under law.

This week, Bedford Central's current superintendent, Dr. Jere Hochman, and Ms. Wollin both declined to discuss the district's response to the Article 78 proceedings, stating that it is the policy of the district not to comment on ongoing litigation.

Mr. Santomero did not return a call this week seeking comment, but has repeatedly said he intends to pursue the matter to all possible lengths.

Now that the district has responded to the initial Article 78 filing, Mr. Santomero's attorney, Robert Siernbach, has the opportunity to refute Bedford Central's counter-claims.

In addition to the release of the documents requested through his FOIL, Mr. Santomero is seeking attorney's fees and other costs incurred by the litigation from the district.

In July, Dr. Jackson began as superintendent of the Highland Falls-Fort Montgomery School District, serving students from the communities of Highland Falls, Fort Montgomery and West Point in Orange County, and Garrison in Putnam County. That same month, Dr. Hochman, who previously served as a superintendent of schools in western Massachusetts, took the helm as Bedford Central's top administrator.

Among other arguments, the petition challenged the board's claim that releasing the documents would result in an unwarranted invasion of privacy.

District defends right to withhold Jackson details

By JOHN ROCHF

Bedford Central school officials recently defended the district's ongoing refusal to publicly disclose all documents pertaining to the dispute that led to the resignation of former superintendent Dr. Debra Jackson.

In court papers filed this month, Bedford Central's school board president Susan Elton Wollin reiterated the district's stance that its refusal to release documents related to the dispute and

Dr. Jackson's resignation and the controversial settlement agreement that resulted is "entirely proper and consistent with applicable law."

Ms. Wollin's statements were made in a sworn affidavit dated Jan. 13 filed in response to legal action taken this past fall by Camille Santomero, a former school board member. Mr. Santomero filed an Article 78 proceeding to appeal the district's refusal to provide all documents pertaining to a "certain dispute"

related to Dr. Jackson's job performance that occurred at some point in 2007 between the Bedford Central school board and the superintendent.

The dispute led to a written agreement between the board and Dr. Jackson that resulted in her resignation, her departure from the district in June 2008, and a buyout package that included a lump sum payment of \$650,000 and medical benefits for her and her family for life. Last spring, Mr. Santomero filed a re-

quest under the New York State Freedom of Information Law (FOIL) asking the district for all documents regarding the dispute, the exact nature of which has never been publicly disclosed because of a confidentiality clause in the separation agreement.

The Record-Review and The Journal News filed similar FOIL requests soon after the agreement between the school board and Dr. Jackson was announced.

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