

District 'FOIL'-ed

By JOHN ROCHE

Hundreds of pages of e-mails, other correspondence and documents pertaining to what led to the controversial and costly separation agreement between the Bedford Central School District and former superintendent Dr. Debra Jackson are now being reviewed and might have to be turned over to a judge in mid-June.

At a court conference this week, an attorney for the school district told a judge's law secretary that he and Bedford Central officials are in the process of sifting through mounds of documents to determine what, if any, records refer to the dispute that led to Dr. Jackson's resignation or the buy-out she received from the district.

And based on what's contained in those documents, including e-mails exchanged between school board members, district administrators and attorneys, local resident and former school board member Camillo Santomero may petition a state Supreme Court judge to reconsider a ruling last month that shot down a key component of an Article 78 proceeding Mr. Santomero filed this fall, his attorney said this week.

"It's certainly clear that there's much more that needs to take place before the judge determines exactly what the school district is going to be required to produce," said Mr. Santomero's attorney, Robert Sternbach, after Tuesday's court conference. "Basically, it seems that although there was a judge's ruling on only one document requested thus far, that is just the tip of the iceberg."

Edward Phillips, an attorney with Keane and Beane, the law firm representing Bedford Central, said that he and the district are in the process of reviewing any and all documents that might be even remotely related to the dispute and departure of Dr. Jackson, who in June left Bedford Central to serve as superintendent of the Highland Falls-Fort Montgomery School District.

"There are e-mails and other documents that we are in the process of reviewing one by one," Mr. Phillips

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said this week. "Because of the nature of printed e-mail exchanges especially, there is a lot of volume and a lot of duplication, so there is a great deal of material that we have to sift through. But as we have all along, we will comply with whatever request is made by the court."

Last year, Mr. Santomero filed a request under the New York State Freedom of Information Law (FOIL) asking the district for 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 Record-Review and The Journal News filed similar FOIL requests soon after the agreement between the school board and Dr. Jackson was announced. The district denied all three of those FOIL requests, but Mr. Santomero subsequently appealed Bedford Central's denial.

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

But on March 31, a judge ruled that

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the Bedford Central board of education acted properly in denying a request that draft disciplinary charges against Dr. Jackson be made public. State Supreme Court Judge Barbara Zambelli upheld Bedford Central's decision not to publicly release the draft disciplinary charges, ruling that they are exempt from being disclosed under FOIL.

The "certain dispute" led to a controversial 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. Citing a confidentiality clause in the agreement, Dr. Jackson and board members have repeatedly refused to comment on what specifically led to her resignation, other than to refer to the "certain dispute" regarding her job performance.

Judge Zambelli ruled that the draft disciplinary charges did not have to be

publicly disclosed by the district since they were never formally filed nor proved against Dr. Jackson. The draft charges are exempt from FOIL, as their disclosure would constitute an unwarranted invasion of privacy as defined by state Public Officers Law, according to the judge.

But in that nine-page ruling, Judge Zambelli also ordered Bedford Central to produce additional documents that may be related to the settlement pursuant to Mr. Santomero's FOIL request, and those documents must be provided to the judge by June 16.

"I don't know yet what these additional documents actually contain, but we're certainly going to find out," Mr. Sternbach said. "To say that this is over, as Bedford Central officials seemed to indicate following the judge's ruling on the draft disciplinary charges, is hardly the case."

In a statement following Judge Zambelli's ruling, the school board said it

was pleased that the judge upheld the board's actions regarding the release of the draft disciplinary charges. The board also "understands the request for information, yet is legally bound not to discuss the specifics of the separation" with Dr. Jackson, the press release stated.

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At or before that mid-June meeting, Bedford Central must also provide a formal representation that no documents related to the Dr. Jackson dispute and departure agreement have been destroyed or deleted, and that all of the respondent documents have been produced, according to Mr. Santomero's attorney.

Mr. Sternbach reiterated that he believes the judge may rule differently on additional documents, since her decision last month on the draft disciplinary charges largely hinged on the fact that they were never formally filed or proved.

"We're going to ask the judge to reopen the original petition to reflect all those additional documents, and to reconsider her ruling," Mr. Sternbach said. "It seems clear there is a great deal more to come."