

The Indian River County District School Board met on Thursday, April 25, 2013, at 9:00 a.m. The hearing was held in the Teacher Education Center located at the J.A. Thompson Administrative Center, 1990 25th Street, Vero Beach, Florida. School Board Members attending were: Chairman Carol Johnson, Vice Chairman Claudia Jiménez, and Board Members: Jeff Pegler, Matthew McCain, and Karen Disney-Brombach. Dr. Frances J. Adams, Superintendent of Schools, and School Board Attorney Suzanne D'Agresta were also present.

**Indian River County District School Board
Employment Termination Hearing
(Evidentiary Hearing)
Open to the Public**

- I Meeting was called to order by Chairman Johnson.
- II. Introduction of the Parties – Chairman Johnson
Chairman Johnson asked both parties to introduce themselves as follows:
Jason Odom of Gould Cooksey Fennel, P.A., representing Dr. Fran Adams.
Dr. Fran Adams, Superintendent of Schools, Petitioner.
Tom Johnson of Johnson & Sirmons, LLP, representing Alan Seiden
Alan Seiden, Respondent

Court Reporter:
Patti Hensley, RPR, of Atlantic Reporting

- III. Introductory Statement – Chairman Johnson
Chairman Johnson gave an introductory statement as follows:
This was an evidentiary hearing on the recommendation of the Superintendent for the termination from employment of Alan Seiden. The hearing was held in accordance with School Board Policy 3.17, and Florida Statutes §§1012.33, 120.569, and 120.57. This hearing involved disputed questions of fact.

A Court Reporter would transcribe the proceedings and administer the oath to all persons testifying as witnesses. The Superintendent had the burden of proof and would present her case first. The parties would be provided an opportunity to make an opening statement limited to not more than 10 minutes each; and, at the conclusion of all the evidence, the parties would be provided an opportunity to make closing statements limited to no more than 15 minutes each. While the School Board typically only allowed 5–10 minutes for such summary statements, we felt additional time was appropriate in this matter.

Once the evidentiary portion of this employee termination hearing had concluded, the School Board Members would deliberate and rule on the recommendation from the Superintendent.

The School Board's attorney would explain to the School Board Members any evidentiary issues or questions of procedure, as these questions arise during the course of the hearing. Chairman Johnson said that it was also customary for this Board, after two hours, to take a break, keeping the time to 10 minutes in length.

Mr. Johnson called for a housekeeping rule regarding those that would testify. He explained that it was customary to have witnesses wait outside (sequestered) the hearing room until they were called to testify. Mr. Johnson said that it was a critical part of due process. He said that if the Board was not going to invoke the rule then he would like to discuss how to move forward.

Chairman Johnson asked Mr. Odom to respond. Mr. Odom stated that the question was that this was an open public meeting with a public body as the County Commission was and other government bodies. He said that if the rule was required to be invoked then he would have no objection to that.

Chairman Johnson asked Mrs. D'Agresta to respond. Mrs. D'Agresta stated that the School Board was subject to the Florida Sunshine Law which required all meetings to be open to the public. She said that there were certain exemptions but were very limited. She said that there was no specific exemption that she had ever heard of to preclude public presence and that would include those who were testifying. Mrs. D'Agresta explained that the penalties would go to the School Board Members, the laws being both in the Constitution and Florida law. She said that it was her opinion that this meeting be open and that anyone sitting in this room has that right. Board Members were given an opportunity to ask questions and make comments.

After hearing from the Board, Chairman Johnson said that the meeting would remain open. Mr. Johnson requested to delay the hearing so he could go to Circuit Court to get a ruling. He argued his point. Chairman Johnson called for comments from the Board.

Mr. Odom stated for the record that the witnesses for the District came to him and said that they were willing to step out on their own and if Mr. Johnson's witnesses were willing to do the same, the problem would be solved. Chairman Johnson asked Mr. Johnson if he would be comfortable with that. (Did not hear a response)

Mrs. D'Agresta responded to a Board question on the Sunshine Law by explaining that this was a public meeting. She said that it was important that the Board understood that we were keeping the meeting open and that the public would be allowed to come in and out at will. Chairman Johnson asked Mr. Odom if he was comfortable with that. Mr. Odom said, "Yes, Ma'am". Chairman Johnson asked Mr. Johnson if he was comfortable with that.

Board Members spoke to the issue. Mrs. D'Agresta responded to their questions regarding proceedings of law. She suggested that the Board take a vote on the issue. Mrs. Disney-Brombach moved approval not to postpone the hearing and that the hearing proceed today, with the witnesses present during the hearing. Ms. Jiménez seconded the motion. Board Members were given an opportunity speak to the motion. The Board voted in favor the motion with a 4-1 vote. Ms. Jiménez, Mr. Pegler, Mrs. Disney-Brombach, and Chairman Johnson voted in favor of the motion. Mr. McCain voted against the motion.

IV. Opening Statements - Limited to 10 minutes each

A. Superintendent

Mr. Odom, on behalf of the Superintendent of Schools, submitted exhibits. Mrs. D'Agresta asked Mr. Johnson if he had any objections to the exhibits. Mr. Johnson said, "No". Mr. Odom gave an opening statement in support of the Superintendent's recommendation for termination of employment.

B. Employee

Mr. Johnson, on behalf of Alan Seiden, submitted exhibits. Mrs. D'Agresta asked Mr. Odom if he had any objections to the exhibits. Mr. Odom said, "No". Mr. Johnson gave an opening statement in opposition to the termination.

~~~~~Break~~~~~

Chairman Johnson reconvened the hearing. Mrs. D'Agresta stated that the student's name would be referred to as KE during the hearing.

V. Superintendent's Case

Mr. Odom presented the Superintendent's case and called witnesses. Mr. Johnson was given the opportunity to offer objections and to cross-examine the witnesses. School Board Members had an opportunity to ask questions.

The following witnesses were sworn in by the Court Reporter and gave testimony:

- Kimberly Swartz, Exceptional Education Autism, Teacher at Liberty Magnet Elementary School
- Treva Boggan, Kindergarten Teacher at Osceola Magnet Elementary School
- Dr. Frances J. Adams, Superintendent of Schools for School District of Indian River County

~~~~~Break~~~~~

Chairman Johnson reconvened the hearing. Mrs. D'Agresta announced a page replacement to remove 6A with 6B-4.009 from Mr. Odom's exhibit.

VI. Employee's Case

Mr. Johnson presented Alan Seiden's case and called witnesses. Mr. Odom was given the opportunity to offer objections and to cross-examine the witnesses. School Board Members had an opportunity to ask questions.

The following witnesses were sworn in by the Court Reporter and gave testimony:

- Dr. Randi J. Hagerman, MD, Professor of Pediatrics at the University of California, Mind Institute
- Thomas Stull, Student Support Specialist at Storm Grove Middle School
- Carline Penny, Exception Student Education Teacher Assistant at Storm Grove Middle School

-----Break-----

Chairman Johnson reconvened the hearing.

Continuation of witnesses who were sworn in by the Court Reporter and gave testimony:

- Alan Seiden, ESE Teacher at Storm Grove Middle School

Ms. Jiménez requested to speak with Board Attorney, Mrs. D'Agresta, in private. No objection was heard.

Chairman Johnson said that before going into closing statements there was a couple of housekeeping items. She said that the Board accepted Exhibit I and in your book you have exhibits 2-6. Chairman Johnson asked Mr. Odom if he had any objection to the exhibits. Mr. Odom said, "We do not, it would be admitted without objection".

Chairman Johnson asked Mr. Johnson if he was through. Mr. Johnson said that he would like to have more time to call additional witnesses. Mr. Johnson said that he had additional witnesses. Mr. Odom said that he did not. Chairman Johnson asked Mr. Johnson if he was aware of the time limit for witnesses. Mr. Johnson said that he was not aware of the time limit. The Board agreed that if Mr. Johnson had more witness that actually saw the incident, they would like to hear them. Mr. Johnson said that he did not have anyone who actually saw the incident but were in the area. Mr. Odom said he had no objection if there were relevant witnesses. Board Members spoke to the issue. Chairman Johnson asked the Board if they wanted to continue the hearing on another date because it was already 4 p.m. Mrs. D'Agresta suggested asking the Attorneys how many witnesses and what amount of time they would require and talk about a continuation date. Chairman Johnson asked Mr. Johnson how many witnesses he had. Mr. Johnson said that there were two.

The following witnesses were called upon by Mr. Johnson and sworn in by the Court Reporter to give testimony:

- Kristen Knight, Exceptional Education Autism Teacher at Liberty Magnet School
- Catherine Scortino, Exceptional Education Teacher at Storm Grove Middle School

Chairman Johnson said after hearing Board input, the Board would move on to closing statements.

VII. Closing Statements - Limited to 15 minutes each

A. Superintendent

Mr. Odom gave a closing statement on behalf of the Superintendent of Schools, Dr. Adams.

B. Employee

Mr. Johnson gave a closing statement on behalf of employee, Mr. Alan Seiden.

C. School Board Members– any final questions

Hearing no questions, the Board moved forward.

VIII. Close Evidence

Mrs. D'Agresta said that it was in order to decide if the Board was ready to close the evidence portion of the hearing and decide if the Board was ready to move forward at this time or reschedule for deliberation and decision. Chairman Johnson asked the Board for their input. Board Members were given an opportunity to comment.

IX. School Board Member Deliberation and Decision – Chairman Johnson

Ms. Jiménez moved approval of the Superintendent's recommendation for termination of Alan Seiden (located under Tab I) that included all items/charges as stated in the charging letter. Mrs. Disney-Brombach seconded the motion. Board Members were given an opportunity to speak to the motion. Board Members voted unanimously in favor of the motion, with a 5-0 vote.

X. Establish Schedule for Preparation of Final Order and Approval by the School Board – Chairman Johnson
Not addressed

XI. Adjourn the Hearing – Chairman Johnson

With no further business, the hearing adjourned at approximately 4:59 p.m.