

**Board of Education
Regular Meeting**

Minutes September 7, 2022

**ELMIRA HEIGHTS CENTRAL SCHOOL DISTRICT
ELMIRA HEIGHTS, NEW YORK**

Call to Order: The Regular Meeting of the Board of Education was called to order at 7:02 p.m. on September 7, 2022 by Board President Joseph Sullivan followed by the pledge of allegiance.

Members Present: Jody Buckley, Christopher Callas, John Cole, Michael Lepak, Joseph Sullivan

Member Absent: Terry Day, Andrew Willard

Others Present: Michael Gill, Martha Clark, Andy Lutz, Mike Bennett, James Gregory (HSLDG)

APPROVAL OF AGENDA/MINUTES

Agenda -

A motion was made by John Cole, seconded by Jody Buckley and carried 5-0 to approve the agenda of the September 7, 2022 Board of Education Regular meeting session.

Minutes –

A motion was made by Christopher Callas, seconded Jody Buckley and carried 5-0 to approve the minutes of the following Board of Education Meetings: August 3, 2022 – Board of Education Regular Meeting -
August 30, 2022 – Board of Education Regular Meeting -

Order of Business:

A motion was made by John Cole, seconded by Christopher Callas and carried 5-0 to suspend the regular order of business to accommodate guests, special discussion topics and presentations in an order of business as deemed appropriate.

At this point in the meeting, the Board proceeded to the discussion topics N-1 and N-2:

N-1 Board of Education Roles and Responsibilities - James Gregory, legal counsel reviewed a PowerPoint presentation to the Board and answered questions.

N-2 Athletic Placement Process policy options – Superintendent Gill presented neighboring districts policies (if any), and Athletic Director, Mike Bennett reviewed the history of athletes that were moved up and expressed his concerns with changing the policy.

COMMENTS FROM THE PUBLIC AND STAFF

Michael Gill - Superintendent ♦ Buildings and Grounds crew nailed it! Great start to our school year! ♦ Opening day was exciting! SRO helped direct traffic at Cohen and had an unexpected fire drill (student pulled alarm) ♦ RTI/MTSS conferences coming up in Kentucky, emphasis this year is revisiting procedures, looking at supports ♦ October 3 is CTE visit to Bush Campus at 9am ♦ Received a letter from a community member, praising Athletic Directors actions at a volleyball game when students were getting a little rowdy. Great job handling the situation swiftly!

Andy Lutz – Elementary School Principal ♦ Great team on opening day! During summer parent/student tours, lots of comments on how clean everything looked, outstanding facilities! ♦ New secretary filling in Tori Brown, is doing an outstanding job! Heights alumni! ♦ Curriculum prioritizing Math and ELA implementation. ♦ Creating district committees. ♦ Building Safety Plans with SRO – focusing on reunification process during situations of stress.

Martha Clark – Business Manager ♦ Auditors getting ready for committee meeting in October to review findings ♦ ST3, financial supports, transparency reporting, still closing out old year ♦ Open bids on bus ban, 3 bids should close end of January.

PERSONNEL:

A motion was made by Michael Lepak, seconded by Christopher Callas and carried 5-0 to approve the following recommended personnel items F-1a thru F-2b, and being further resolved that upon receipt of final clearance from the State Education Department, any conditional appointments shall be changed to regular appointments, reflecting the effective date of said Board meeting.

F-1 Resignations / Terminations / Retirements

Resignation

a. Michael Crowley, Cleaner

The Board accepted, pending appointment as a Custodian, the resignation of Michael Crowley as cleaner effective September 8, 2022. Mr. Crowley acknowledges he will be voluntarily giving up his permanent status to accept a position in a new probationary area if appointed below.

b. Katie Nicholson, Teaching Assistant

The Board accepted with thanks and best wishes, the resignation of Katie Nicholson as teaching assistant effective August 30, 2022..

F-2 Appointments

The Board approved the following personnel. Be it further resolved that upon receipt of final clearance from the State Education Department, any conditional appointments shall be changed to regular appointments, reflecting the effective date of said Board meeting.

- a. The Board approved the following resolution: Upon the recommendation of Superintendent, and having had an opportunity to discuss the matter, RESOLVED, that the Elmira Heights Central School District appoints the Ferrara Fiorenza PC law firm, effective October 1, 2022, as its attorneys on the same terms and conditions as it had with its former counsel, Hogan, Sarzynski, Lynch, DeWind & Gregory, LLP.
- b. The Board approved the following probationary appointment:

Michael Crowley
 Custodian (Competitive)
 Effective: September 8, 2022
 Probationary Period: September 8, 2022 through September 7, 2023/Civil Service Regulations
 Compensation per EHESSA Contract: \$21.25 per hour (Step 1)

FINANCIAL

G-1 Reports - acknowledged

A motion was made by John Cole, seconded by Michael Lepak, and carried 5-0 to acknowledge the following consent financial reports G1a through G1f.

- a. Budget Status Report as of August 31, 2022
- b. Revenue Status Report as of August 31, 2022
- c. Budget Transfer Reports as of August 31, 2022
- d. Treasurer's Report for July 2022
- e. Claims Auditor Report for July 2022
- f. Extra Classroom Report for July 2022

FACILITIES

H-1 2022 Capital Outlay / Annual Project Update – Superintendent Gill reported the glass is in the door, looks great.

H-2 2023 Capital Outlay Project – no new updates to report.

H-3 Capital Project 2021 / Energy Performance Contract (EPC) Update – still waiting, reviewing the “red tape” level

NEW BUSINESS

J-1 NYSSBA Conference – Voting Delegate

Voting Delegate –

Nominee: Andrew Willard Nominated by John Cole Seconded by Jody Buckley

With no other nominations, Andrew Willard was elected 5-0 as the voting delegate at the NYSSBA Conference

Alternate Delegate –

Nominee: Jody Buckley Nominated by Christopher Callas Seconded by John Cole

With no other nominations, Andrew Willard was elected 5-0 as the alternate delegate at the NYSSBA Conference

CONSENT

A motion was made by John Cole, seconded by Christopher Callas and carried 5-0 to approve the following consent agenda items K-1 through K-3

K-1 School Related Group – Project Graduation - approved

The Board of Education recognized Project Graduation as a school-related group for the 2022-23 school year.

K-2 Donation in kind – TAE Class of 2022 – accepted

The Board accepted with thanks and appreciation, from the TAE Class of 2022 the following donations in kind valued at \$3,596.16: two vinyl lounge chairs, one vinyl loveseat, an electric stove/oven, and a set of flatware to the TAE faculty lounge; two microwaves (with the hope that at least one of the older school store microwaves can be placed in the TAE cafeteria for student lunch use), two microwave rolling carts, a three burner Bunn coffee maker/warmer, two 45 cup coffee urns for hot chocolate and/or coffee, and a five gallon insulated hot/cold server/dispenser for beverages to the TAE school store/concession stand.

K-3 Erway Ambulance Service contract - approved

The Board approved the special event contract for services with the Erway Ambulance Service, Inc. for ambulance coverage during sporting events for the 2022-23 school year.

DISCUSSION (Moved to beginning of meeting)

NEXT MEETING

Wednesday	September 21, 2022	Regular BOE Meeting (if needed)	7:00 pm	Community Room
Wednesday	October 5, 2022	Regular BOE Meeting (following Audit Committee @6:30)	7:00 pm	Community Room

ADJOURNMENT – At 8:47 pm motion was made by Jody Buckley, seconded by Joseph Sullivan, and carried 5-0 to adjourn the meeting.

Clerk

DRAFT

BOARD OF EDUCATION ROLES AND RESPONSIBILITIES

Hogan, Sarzynski, Lynch, DeWind & Gregory, LLP

James A. Gregory, Esq.



SCHOOL BOARD ROLES AND RESPONSIBILITIES

- The School Board is elected by the residents
- The Board's powers are set by statute and the Board passes local policies and resolutions
- The Board hires and terminates all employees
- The Board supervises the Superintendent and controls the purse

LAWS GOVERNING SCHOOL BOARDS

- The New York Education Law.
- General Municipal Law - conflicts of interest, bidding, and purchasing, reserve funds, etc.
- Public Officer's Law, Article 7 - Open Meetings Law.
- The Civil Rights Act - 42 USC § 1983.
- Other Federal laws - IDEA, Title VII, Title IX.

LIABILITY FOR BOARD MEMBERS

- Board members can be removed from office for violating their responsibilities and oaths of office:
 - Breaching confidentiality of executive sessions
 - Failure to attend 3 consecutive meetings without good cause
- Board Members can be liable for:
 - violation of Civil Rights' protections
 - Failing to follow responsibilities created by their own policies

DO BOARD MEMBERS HAVE INDIVIDUAL AUTHORITY?

- Generally, no. A Board acts as a group only. All decisions must be authorized by resolutions duly passed by a majority of the whole Board. An individual Board member has no more authority than any other qualified voter of the District.

DO BOARD MEMBERS HAVE INDIVIDUAL AUTHORITY? – CONT'D

- A Board may delegate authority to a Board officer, such as an auditor - *1709(20-a)*. It may also delegate the power to perform ministerial acts to other school officials such as authorizing the business manager to make purchases with appropriated funds of certain items that do not require competitive bidding - *8 NYCRR §170.2(b)*.

BOARD-SUPERINTENDENT RELATIONS

- The Superintendent is the District's Chief Operating Officer.
- The Board is the District's policy making body.
- The roles define the relationship.
- Board members questions and comments as well as constituent questions and comments go first to the Superintendent.

MICRO-MANAGEMENT

- Defined - micro-management is the act of assuming another's position in the chain of command.
- Board members govern the District by acting together as a policy-making body. The Board has only one employee reporting directly to the Board. All other employees report to someone else first.

DISTRICT CHAIN OF COMMUNICATIONS

- All complaints should be directed to the immediate supervisor of issue, then work their way up.
- The Board speaks with one voice.
 - All communications back to the public should go through the Board President or Superintendent
 - The Board speaks through its policies and resolutions

COMMON MYTHS OF SCHOOL BOARD GOVERNANCE

- The Board negotiates the Taylor law contracts.
- Board minutes are a narrative of the meeting.
- An individual Board member has special status in the District.
- Board meetings are governed by Robert's Rules of Order.

REGULATIONS OF THE COMMISSIONER: ACCESS TO PERSONNEL RECORDS

- §84.2 Procedures to Obtain Access
- Examination of personnel records by Board of Education shall be conducted only at executive session of the Board.
- Any Board member may request the Chief School Officer to bring the personnel records to an open meeting.
- The Board shall then determine whether to go into executive session to review the records.
- The records shall then be returned in their entirety at the end of executive session.

ACCESS TO SCHOOL EMPLOYEE PERSONNEL RECORDS – CONT'D

- §84.3 Purposes and Use
- *Information obtained from employee personnel records by members of the Board of Education shall be used only for the purpose of aiding the members of the Board to fulfill their legal responsibilities in making decisions in such employee personnel matters as appointments, assignments, promotions, demotions, remunerations, discipline or dismissal, or to aid in the development and implementation of personnel policies, or such other use as are necessary to enable the board to carry out legal responsibilities.*

COMMON MYTHS OF OPEN MEETING LAW

- ▶ The Board must publish an agenda.
- ▶ The public must be permitted to address the Board.
- ▶ The Board is not required to take minutes of an executive session.
- ▶ Committee meetings or work sessions are not covered by the Open Meetings Law.

OPEN MEETINGS LAW GENERAL REQUIREMENTS

Any Definition of a Meeting.

Any time quorum of Board present and discussing Board Business.

Publication of a Meeting

If plan meeting at least 7 days ahead

at least 3 days ahead, give notice to newspaper(s)

Put on District's website

If plan meeting less than 7 days ahead

As is reasonable. Generally post on door, post on website.

Call newspaper.

PRACTICAL TIPS TO RUNNING A BOARD MEETING

- Consent Agendas
 - No specific rules, courtesy and efficiency control.
- Don't discuss items with public, just listen and thank
 - Even if permit public comment, bad idea to reply
- Keep on Agenda Topic
 - Derailing the meeting makes everything take longer but doesn't lead to better decisions.
- For Controversial personnel or student matters, invite participants into Executive session (see next slides)

OPEN MEETINGS LAW EXECUTIVE SESSION TOPICS

- Matters which will imperil the public safety, if disclosed.
- Discussions involving proposed, pending, or current litigation.
- Collective negotiations pursuant to Article 14 of the Civil Service Law.

OPEN MEETINGS LAW EXECUTIVE SESSION TOPICS – CONT'D

- The medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation.

OPEN MEETINGS LAW EXECUTIVE SESSION TOPICS

- The preparation, grading, or administration of exams.
- The proposed acquisition, sale, or lease of real property or securities, but only when publicity would substantially affect the value of these things.

OPEN MEETING LAW §108 EXEMPT SESSION TOPICS

- Board meetings to discuss the following specific school topics are **totally exempt** from the Freedom of Information Law
 - Judicial and Quasi-judicial Proceedings
 - Any matter made confidential by State or Federal Law
 - Like attorney-client privilege or Student Records under FERPA

ABSTAINING AND VOTING

- Because all votes fail unless passed by a majority of the whole Board, an abstention counts as a no vote.
- Board members have a general duty to cast a vote. You ran to make tough decisions.
- Board members may reasonably abstain where there is an actual or an appearance of a conflict of interest.

CONFLICTS OF INTEREST

- Where a Board member has a personal interest (including immediate family members) in a school contract, the whole contract is barred-except for Employment contracts and CBAs.
- Where a Board member has an interest in a contract which is not barred, the Board Member must publicly disclose it.
 - Contracts under \$750
 - Where member elected to Board after contract is entered
 - Board member as School Physician upon 2/3 vote.

COMMON NON-CONTRACT CONFLICTS OF INTEREST

- Where a Board member's close family member is:
 - appealing discipline
 - Competing for Valedictorian slot,
 - Applying for a job

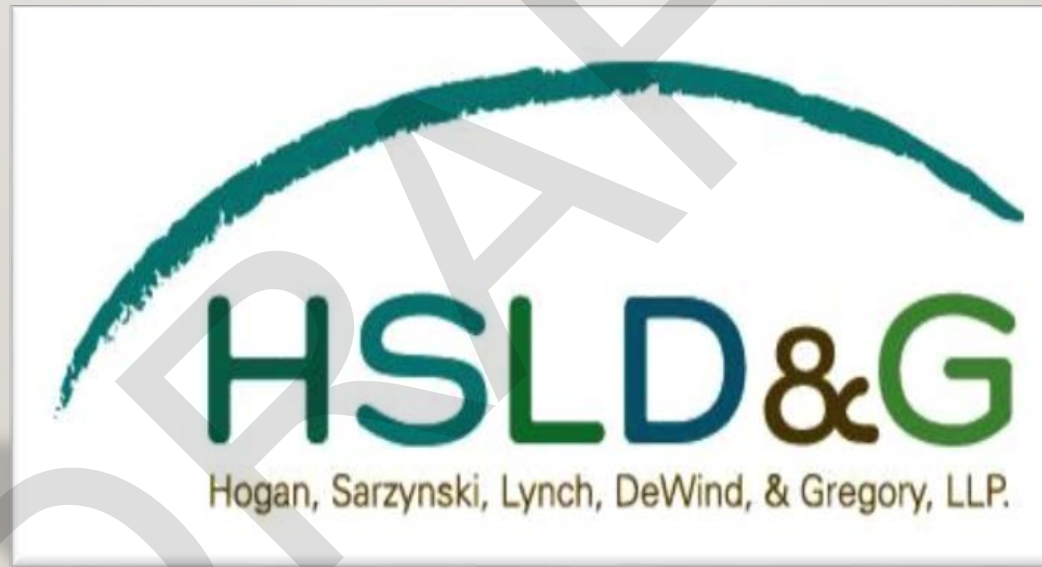
PERSONAL REASONS EXCUSE FOR NOT VOTING

- Generally personal reasons are insufficient to claim as a reason not to vote.
- Example: It is a violation to refuse to grant tenure because a Board member “doesn’t believe in the tenure system.”

LIABILITY OF BOARD MEMBERS AND REMOVAL FROM OFFICE

- Board members can be removed from office for violating their responsibilities and oaths of office:
 - Breaching confidentiality of executive sessions;
 - Failure to attend 3 consecutive meetings without good cause.
- Board Members can be liable for:
 - Violation of Civil Rights protections;
 - Failing to follow responsibilities created by their own policies.

THE END



SUBJECT: ATHLETIC PLACEMENT PROCESS

The Elmira Heights Central School District approves the use of the Athletic Placement Process for all secondary school interscholastic athletic team membership in accordance with regulations as outlined by the New York State Public High School Athletic Association and the Commissioner of Education.

The Board of Education recognizes that the program is designed to allow **mature and unusually gifted athletes** that possess physical maturity, high levels of fitness and exceptional athletic skills to be placed beyond other youngsters in his/her chronological age bracket.

Students in Grade 8 will be permitted to go through the Athletic Placement Process as outlined in the regulations supporting this policy. The Athletic Director shall oversee all procedures for consideration which shall include, but are not limited to:

- a) Receipt of parental permission;
- b) Arrangement for appropriate medical clearance;
- c) Receipt of coaches recommendations;
- d) Administration of required fitness exams;
- e) Establishment of review committee for final determinations. Optional addition to policy based on Board of Education discussions:

(Students in Grade 7 will not be permitted to go through the Athletic Placement Process unless a student shows exceptional promise and has established participation at high levels in a particular sport. In this case, the student may appeal and request a waiver to this clause by submitting a written request directly to the Superintendent.)

Adopted: 8/9/04

Revised: 06/11/2015

ALLOWING 7TH GRADERS TO PLAY JV/VARSITY SPORTS:

- Currently, we offer the modified level at every sport offered at the varsity level except for baseball and softball.
- We have had discussions about adding the modified level for baseball and softball in the future.
- My concerns with opening this up to 7th graders:
 1. Even though you may be offering an opportunity to a 7th grader, you are at the same time potentially taking opportunities from High School students.
 2. Not having enough players to field our current and new modified teams. For example, if we have 7th graders playing JV volleyball, it takes away from the participation numbers for our newly coming modified soccer program.
 3. In my 26 years in the EHCS, there have been 5 cases where athletes who have applied for advanced placement as a 7th grader. 4 were allowed and 1 was denied.
 - Case #1 - boys wrestling approved. Student transferred.
 - Case #2 - girls basketball approved. Girl played Division 1.
 - Case #3 - boys baseball approved. Boy played Division 1.
 - Case #4 - girls basketball approved. Still a student.
 - Case #5 - girls softball denied. Same student as case #4 and doesn't play softball anymore.
 4. Starting their athletic eligibility clock ticking....
- I would be much more in favor of starting modified baseball and softball than to change the 7th grade participation rule.