

Board Proceedings

The Board of Directors for the New Hampton Community School District met in special session, Thursday, January, 21, 2016 in the High School Media Center. President Rosonke called the meeting to order at 6:35 pm with directors Baltes, Denner, Matthews, Schwickerath, Board Secretary Ayers, Board attorney Beth Hanson Superintendent Jurrens, and administration attorney Brett Nitzchke.

Director Denner moved to approve the agenda. Director Baltes seconded the motion. Roll call vote: Matthews yes, Denner yes, Rosonke yes, Baltes yes, Schwickerath yes. Motion passed.

The Board received a letter from Erich D. Priebe (attorney for Jennifer Heying and Cole Roberson). The letter asked board president Rosonke to recuse himself from the deliberation and decision making. Rosonke recused himself and vice president Baltes assumed control of the board.

Attorney Hansen asked if the parent and student wanted this hearing in open session. Attorney Priebe confirmed that the family desired an open meeting.

Attorney Hansen asked the board members if they needed any additional attorney argument or statement. None of the board members requested any addition information.

Attorney Hansen outlined the process for the deliberation will include the listening of the recorded testimony. Following the testimony the Board will take a 15 minute recess to deliberate on the testimony. The board members will refrain from discussing any of the information with other members during the fifteen minute recess. When the Board reconvenes there will be full deliberation weighing the evidence by the board members and followed by specific finding of facts. Depending upon those findings of fact and is supported by the finding of facts there will be a motion related to the penalty. Because the board is undertaking deliberations for the second time of the deliberation on November 17, 2015, there will be a motion to make the previous decision null and void by roll call vote. If the motion passes, they will be voiding the previous decision and moving forward with their findings and decision they make.

The board listened to the recording of the November 16, 2015 board meeting. At the conclusion of the recording the Board recessed at 7:32 pm to individually review the facts of the recording of the November 16, 2015 student hearing.

The Board reconvened at 8:00 pm.

The Board deliberated the allegation that Roberson possessed a gun or a look-a-like gun on school property on November 4, 2015. The board referred to board policy 502.8 (Weapons). The board members noted that Colton admitted to having the cap gun. The cap gun did not have a colored tip making it look like a real weapon. The board concluded that Student A's description of the gun and location was accurate.

The board deliberated the allegation that Roberson possessed Marijuana on school grounds on November 4, 2015. The board discussed the testimony of Coulton, Dr. Updegraff, Superintendent Jurrens, and Deputy Shawver. The Board discussed the police record and photos of the Mason jar. The board discussed the testimony of Deputy Shawver that the jar smelled of Marijuana. The Board also noted that Roberson admitted to having the jar in his vehicle. The Board concluded that Roberson had possessed Marijuana on school property.

The Board discussed potential penalties for Roberson. Vice President Baltes presented the options of expulsion, suspension, suspension for time served per the November 17, 2015 hearing, or no action on the discipline. Baltes asked for input on expulsion. None of the Board members wanted the expulsion option. Baltes asked if any Board members were in favor of additional suspension. None of the Board members were in favor of addition suspension. Baltes then offered the option of accepting the suspension time already served. All Board members agreed that the time already served to be appropriate.

Director Denner moved to set aside the original punishment from the November 17, 2015 be null and void. Director Matthews seconded the motion. Roll call vote: Schwickerath yes, Matthews yes, Denner yes, Baltes yes. Motion passed.

Director Denner moved to suspend Roberson for the time already served. Director Schwickerath seconded the motion. Roll call vote: Matthews yes, Denner yes, Baltes yes, and Schwickerath yes. Motion passed.

The Board directed Attorney Hansen to draft a document of finding of fact, conclusion, and penalty in the matter of discipline of Coulton Roberson. The Board will meet January 25, 2016 to approve and sign the document.

Director Denner moved to adjourn at 8:31 pm. Director Matthews seconded the motion. Ayes: Schwickerath, Baltes, Denner, and Matthews. Nays: none.

Attest: February 8, 2015

Joe Rosonke
Board President

Bob Ayers
Board Secretary

E-mail: priebee@wloolaw.com

January 21, 2016

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VIA FACSIMILE
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HARD COPY TO FOLLOW

RE: Jennifer Heying vs. New Hampton Community School District

Dear Beth:

The purpose of this letter is to provide you and your clients with Jennifer Heying and Cole Roberson's written objections to a proposed decision-maker in the student discipline action of the New Hampton Community School District set for January 21, 2016. Specifically, Heying and Roberson object to proposed decision-maker Joe Rosonke based upon known conflicts of interests of this board member.

Briefly, investigation in this case has revealed that board President Rosonke has a contentious history with Roberson and Heying. In January 2014 and for some time thereafter, it appears that Roberson was on the receiving end of allegations that he tampered with or contaminated the water bottles used by the school's basketball team. Many of these allegations, which were never substantiated, stemmed from a close relative of President Rosonke (referred to in the deposition of Kelly O'Donnell as "Student 1"). Although Roberson himself was a member of the team at that time and also complained that his water supply may have been contaminated, the administration apparently ignored Roberson's concerns.

At the close of the ordeal, Roberson was punished while Student 1, the relative of President Rosonke, was not. Moreover, Roberson was badgered and teased by other students and players for these water-tampering allegations, despite Roberson himself being a target of the same tampering. This resulted in Heying submitting a bullying report to the school on or about January 28, 2014. This report was directed against Student 1 and was also apparently ignored by the school board. Student 1 later made it known that he was "untouchable" as a result of Rosonke's position as school board President. Unfortunately, the circumstances of this episode suggest that this may have been an accurate observation on Student 1's part.

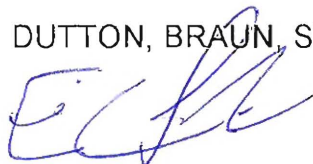
The past pattern of scapegoating Roberson and ignoring his legitimate concerns suggests that Rosonke is unfit to fairly determine the merits of any student discipline action commenced against Roberson. The prior and continuing contention among Roberson and Heying on one side and President Rosonke and Student 1 on the other suggests that Rosonke cannot be an impartial decision-maker in this matter. Of course the need for an impartial decision-maker is a key aspect of Roberson's due process rights under the U.S. and Iowa Constitutions. The State—and the school board—have an obligation to honor and uphold these civil rights.

Please consider this a formal request to have Rosonke recuse himself from the deliberations and decision-making of any student discipline action commenced against Roberson. The fundamental requirements of due process include an opportunity to be heard, a right to notice of the hearing, to confront and cross-examine adverse witnesses, to be represented by counsel, to an impartial decision maker, and to a decision based solely on legal rules and the evidence presented at the hearing. Heying and Roberson are entitled to all these procedures, and they hereby request that the school implement them accordingly.

Thank you for your attention to this matter.

Very truly yours,

DUTTON, BRAUN, STAACK & HELLMAN, P.L.C.



Erich D. Priebe