

RECORD OF PROCEEDINGS

Minutes of Western Reserve Board of Education Regular Meeting

October 21, 2009.

The Western Reserve Board of Education met in Regular Session on October 21, 2009 at 7:30 p.m., in the Board Office Conference Room. Mrs. Pickett called the meeting to order. The following members responded to roll call: Mrs. Pickett, Mr. Daniels, Mr. Blair, Mrs. Fannin, Mr. Todd, Interim Superintendent Rodge Wilson, and Treasurer Brett Robson.

Mr. Blair moved, seconded by Mr. Todd, the Board approve the agenda and supplemental agenda as presented.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mr. Daniels moved, seconded by Mr. Blair, the Board approve the minutes of the September 16, 2009 Regular Meeting as presented.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mrs. Fannin moved, seconded by Mr. Blair, the Board enter into executive session to discuss personnel matters concerning the renewal and/or non-renewal of the Superintendent’s contract as well as any other contracts with the Western Reserve Board of Education of Doug Solet.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Entered into executive session 7:39 p.m.

Returned from executive session at 7:49 p.m.

Mr. Blair moved, seconded by Mr. Todd, the Board return from executive session.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mrs. Fannin moved, seconded by Mr. Blair, the Board non-renew the Superintendent’s contracts between the Western Reserve Board of Education and Doug Solet.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mr. Daniels moved, seconded by Mr. Blair, the Board accept the bid for snow removal services for the 2009-2010 school year from Chris Hipp Landscaping.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mrs. Fannin moved, seconded by Mr. Blair, the Board approve the bus stops for the 2009-2010 school year as presented.

Mrs. Pickett–yes, Mr. Daniels–no, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mr. Daniels moved, seconded by Mr. Blair, the Board authorize the Superintendent to add additional stops within the district throughout the 2009-2010 school year.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mr. Daniels moved, seconded by Mr. Blair, the Board adopt modified Board Policy 2460 as presented.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

Mr. Daniels moved, seconded by Mr. Blair, the Board approve the following volunteers for the 2009-2010 school year pending successful completion of all Board requirements: Jeff Winslow-Boys’ Basketball; Eric Robson-Boys’ Basketball; Terry Munroe-Wrestling; Kevin Robson-Wrestling; Dalton McHenry-Wrestling; Nathan Grys-Wrestling; Lawson Bethard-Baseball; Mark Redmond-Girls’ Softball; Floyd Studd- Girls’ Softball.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.
Motion passed.

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Mr. Daniels moved, seconded by Mr. Todd, the Board accept the resignation of Deb Henry, Drama Advisor, for personal reasons.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

Mrs. Fannin moved, seconded by Mr. Daniels, the Board accept the resignation of Glenda Jacobs, Drama Advisor, for personal reasons.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

Mr. Daniels moved, seconded by Mrs. Fannin, the Board approve the following certified staff members for the respective supplemental contract for the 2009-2010 school year, pending successful completion of all Board requirements: Kimberly Harrison-Drama Advisor; John Kuhlman- Head Softball Coach

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

Mrs. Fannin moved, seconded by Mr. Todd, the Board approve the following non-certified, non-staff members, for the respective supplemental contract for the 2009-2010 school year, pending successful completion of all Board requirements: Greg Mullins-Head Baseball Coach; Steve Pausch-JV Baseball Coach (50%); Dave Ash-JV Baseball Coach (50%).

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

Mr. Daniels moved, seconded by Mr. Blair, the Board approve the following volunteers for the 2009-2010 school year, pending successful completion of all Board requirements: Brittany Pickett-Girls' Basketball.

Mrs. Pickett–abstain, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

Mr. Blair moved, seconded by Mr. Todd, the Board approve the financial reports for September, 2009 as presented.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

Mr. Robson reported no donations for the month of September.

Mr. Daniels moved, seconded by Mr. Blair, the Board approve the five year forecast for the October, 2009 submission as presented.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

Ellen Simmons was recognized as an Outstanding Media Person by the Ohio School Board Association and the Western Reserve Local Board of Education.

Mr. Daniels updated the Board on the NPESC in-service.

Mr. Blair moved, seconded by Mr. Daniels, the Board enter into executive session to consider the employment and/or dismissal of the Superintendent. Specifically, the Board will consider whether to accept or reject the Report issued by the Referee regarding the termination hearing of Douglas Solet. This executive session will be followed by an open meeting of the Board to take action regarding the employment of the Superintendent.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

The Board entered into executive session at 8:37 p.m.

The Board returned from executive session at 10:15 p.m.

Mr. Daniels moved, seconded by Mrs. Fannin, the Board return from executive session.

Mrs. Pickett–yes, Mr. Daniels–yes, Mr. Blair–yes, Mrs. Fannin–yes, Mr. Todd–yes.

Motion passed.

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Mr. Blair moved, seconded by Mr. Daniels, the following resolution be adopted by the Board:

**RESOLUTION TO TERMINATE ANY AND ALL
EMPLOYMENT CONTRACTS OF DOUGLAS SOLET
WITH THE BOARD OF EDUCATION EFFECTIVE 12:01
A.M., OCTOBER 22, 2009.**

WHEREAS, Douglas Solet (hereinafter "Mr. Solet") is currently employed by the Board of Education of the Western Reserve Local School District (the "Board") as the Superintendent under a contract issued pursuant to Ohio Revised Code Section 3319.01 that is presently suspended; and

WHEREAS, for the reasons set forth in the Resolution to Consider the Termination of Mr. Solet properly adopted on February 27, 2008, which is incorporated herein by reference, the Board unanimously voted to consider the termination of Mr. Solet and to suspend, without pay, any and all employment contracts with Mr. Solet effective 12:01 a.m. February 28, 2008; and

WHEREAS, prior to taking the action specified above, the Board provided Mr. Solet, through his counsel, a draft copy of the February 27, 2008 Resolution to Consider the Termination of Mr. Solet and offered him the opportunity to respond to the grounds for termination specified therein during a meeting with the Board President at 4:00 p.m. on February 27, 2008, and Mr. Solet failed to do so; and

WHEREAS, after taking the action specified above, the Board provided Mr. Solet with notice of its intention to consider termination of his employment on February 28, 2009, by way of letter sent by certified mail and hand delivery and which letter provided Mr. Solet with notice of his right to request a hearing before the Board or a Referee; and

WHEREAS, Mr. Solet, although having failed to take advantage of the opportunity to meet with the Board to address the allegations against him prior to adoption of the February 27, 2008 Resolution, requested, through counsel on March 7, 2008, a hearing before a Referee in accordance with R.C. 3319.161; and

WHEREAS, the Board submitted Mr. Solet's request to the Ohio Department of Education and the Board and Mr. Solet thereafter mutually agreed to use the services of Victor P. Kademenos as the Referee in accordance with R.C. 3319.161; and

WHEREAS, a hearing regarding the consideration of Mr. Solet's termination was held over the course of six days between October 8, 2008, and June 17, 2009, over which Mr. Kademenos presided; and

WHEREAS, Mr. Kademenos submitted a Report on August 28, 2009, captioned "Douglas Solet's Proposed Findings of Fact and Recommendations," and which was signed by the Referee as "Attorney for the Claimant;" and

WHEREAS, Mr. Kademenos submitted a substantively similar revised Report on September 3, 2009, captioned "Hearing Officer's Decision" and with the error removed from the signature block; and

WHEREAS, the Board convened a regular meeting on October 21, 2009, and entered into executive session to consider the employment and/or dismissal of an employee followed by an open meeting of the Board to consider the Report of the Referee and to take action regarding the employment Mr. Solet; and

WHEREAS, prior to the regular meeting on October 21, 2009, each Board Member individually reviewed the transcript of the six-day hearing, the evidence presented therein, the respective post-hearing briefs submitted by counsel, and the Report of the Referee (collectively "Record") so as to be able to engage in thoughtful deliberation and consideration of the Report of the Referee during the meeting; and

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WHEREAS, the Board finds that the Report of the Referee wholly fails to set forth separate and distinct findings of fact or to adequately articulate the bases for the conclusions of law stated therein; and

WHEREAS, having carefully considered the Record, the Board hereby rejects those portions of the Report of the Referee that are against the manifest weight of the evidence as follows:

- The Referee's finding that the Board terminated Mr. Solet's contract in December 2007, effective February 28, 2008, is in error. The Board did not terminate Mr. Solet's contract. Rather, the Board adopted a Resolution to consider the termination of Mr. Solet's contract on February 27, 2008. The Board finds this fundamental error to be indicative of the Referee's overall failure to carefully consider and weigh the evidence before him.
- The Referee's finding that the Board's decision to consider the termination of Mr. Solet's contract was "pursuant to and reliance on" (*sic*) the investigative report issued by HR on Call is in error. The Board relied not only on the report issued by HR on Call, but upon other instances of misconduct discovered during the course of the HR on Call investigation, and upon the fact that Mr. Solet's misconduct injured the welfare of the Western Reserve community, caused both the Board and the community to lose trust in him, and undermined his ability to effectively lead the District.
- The Referee's finding that Ms. McConnell is a first grade teacher is in error. Ms. McConnell is a Kindergarten teacher.
- The Referee's finding that the Board voted unanimously to terminate the employment contract of Mr. Solet is in error. The Board voted unanimously to consider the termination of Mr. Solet's contract.
- The Referee's finding regarding the number of calls between Mr. Solet and Ms. Harris is in error. Although Mr. Solet initiated the series of phone calls with Ms. Harris from his cell phone, and the cell phone records establish that Mr. Solet called Ms. Harris 11 times and she called him 12 times, the Board also finds that Ms. Harris testified that Mr. Solet called her at home and from his office number. The Board further finds that several of Mr. Solet's phone calls to Ms. Harris were made after he was specifically instructed to have no further contact with her.
- The Referee's finding that the inappropriate text messages Mr. Solet sent to Ms. Harris were not corroborated is in error. The Board finds that Ms. Harris showed Ms. Zaborski at least two text messages that stated "Good Morning Beautiful" and "How are you today?" The Board further finds that Ms. Harris forwarded two text messages to Denise White, one which stated "What are you doing now?" and the other which stated "2 people called the office today to inform them that I am involved with a staff member.
- The Referee's failure to find that Mr. Solet sent Ms. Harris additional inappropriate text messages was in error. The Board finds that Mr. Solet sent Ms. Harris text messages requesting that she send him naked pictures of herself, that she send him pictures of her playing with herself, and that he could picture having sex with her.
- The Referee's failure to find that Mr. Solet repeatedly propositioned Ms. Harris to go drinking with him away from the District is in error. The Board finds that Mr. Solet asked Ms. Harris to go for drinks with him on more than one occasion.
- The Referee's failure to find that Mr. Solet waited for Ms. Harris on school property until she returned from driving her school bus, and without a legitimate work-related reason to do so was in error. The Board finds the Mr. Solet

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frequently propositioned Ms. Harris to go drinking with him somewhere away from the District.

- The Referee's findings as they relate to the evening of December 5, 2007 are, at least in part, in error. Specifically, the Referee's finding that Ms. Harris gave discrepant statements regarding where Mr. Solet imposed an unwelcomed kiss upon her is in error. The Referee's finding that Treasurer Brett Robson testified that Ms. Harris told him that Mr. Solet kissed her in the office is in error. The Board finds that the only possible basis for such a finding is the misrepresentation contained in Mr. Solet's post-hearing brief, as nothing in the record supports such a discrepancy. The Board further finds that Mr. Robson conceded that he made an assumption regarding where the kiss occurred.
- The Referee's finding that there is no timeline to report harassment contained in the school guidelines is in error. The Board finds that Administrative Guideline 3362 ("AG 3362") states that "While there are no time limits for initiating a complaint of harassment, individuals should make every effort to file an informal or formal complaint as soon as possible after the harassing conduct occurs." The Board further finds that Mr. Solet failed to abide by and enforce AG 3362 in failing to report the sexual harassment he alleged was perpetrated by Ms. Harris until nearly two months after the first alleged incident of harassment occurred. The Board further finds that Policy 3362 states "While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file an informal or formal complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available."
- The Referee's failure to find that Mr. Solet recommended Ms. Harris for an additional part-time position by stating to the Board that she was a model employee eight days after he later alleged that she sexually harassed him was in error. The Board finds that Mr. Solet suggested that Ms. Harris apply for several positions, that he recommended her for the part-time cafeteria position eight days after he later alleged she sexually harassed him, and that on November 28, 2007, Mr. Solet represented to the Board that Ms. Harris was a model employee with whom he had experienced no problems.
- The Referee's failure to find that Mr. Solet visited Ms. Harris every day in her cafeteria position is in error. The Board finds that Mr. Solet not only visited Ms. Harris in the cafeteria on a daily basis, but that he expressed to her that he was happy he could see her daily and told her to dress nicely for him. The Board further finds that Ms. Harris testified that Mr. Solet sent Ms. Harris text messages while visiting Ms. Harris in the cafeteria and made statements regarding being able to see her face when her phone vibrated in her pocket.
- The Referee's failure to find that Mr. Solet lied to the Board when recommending a candidate for employment is in error. The Referee's finding that the candidate was a teacher is also in error. The Board finds that Mr. Solet failed to follow proper posting procedures and instead recommended a woman with whom he was friendly for the secretarial position at issue. The Board further finds that Mr. Solet lied to the Board when questioned about his recommendation by stating that the candidate must have heard about the posting from word on the street, and that Mr. Robson knew this assertion to be false.
- The Referee's finding that the complaint procedure has a "page 25," and that it states that an individual can tell the person to just "stop" without filing a formal complaint is in error. The Board finds that both Policy and AG 3362 are 5 pages in length. The Board further finds that AG 3362 states that "While there are no time limits for initiating a complaint of harassment, individuals should make every effort to file an informal or formal complaint as soon as possible after the harassing conduct occurs." The Board further finds that Policy 3362 states "While there are no time limits for initiating complaints of harassment under this

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policy, individuals should make every effort to file an informal or formal complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.”

- The Referee’s finding that Board Member Wendy Pickett testified that Mr. Solet never denied communications with Ms. Harris is in error. The Board finds that nothing in the Record supports this finding. The Board further finds that Ms. Pickett testified that Mr. Solet did not take advantage of the opportunity to be truthful with the Board.
- The Referee’s finding that Ms. Pickett testified that Ms. Zaborski and Ms. McConnell never filed or made a complaint with regard to Mr. Solet is in error. The Board finds that nothing in the Record supports this finding. The Board further finds that Ms. Pickett testified that both Ms. Zaborski and Ms. McConnell levied allegations of inappropriate conduct against Mr. Solet and that each was made to feel uncomfortable by him.
- The Referee’s findings regarding the grounds that Mr. Daniels, Ms. Pickett, and Ms. Fannin identified for the bases for termination are in error. The Board finds that the Record does not support the narrow recitation set forth by the Referee as to each of these three Board members. The Board further finds that the totality of the testimony of these three Board members supports the grounds for termination set forth in the Resolution to Consider the Termination of Mr. Solet.
- The Referee’s failure to make any findings of fact regarding the testimony of Board members Mark Blair and Jim Todd is in error. The Board finds that both Mr. Todd and Mr. Blair testified that the Resolution to Consider the Termination of Mr. Solet was properly adopted, that they agreed with the Resolution, and that Mr. Solet’s conduct adversely impacted the school community and his ability to lead the District.
- The Referee’s finding that Tom Herlevi from HR on Call testified that Ms. Harris’ statement to the Sherriff’s department was inconsistent with other statements she made is in error. The Board finds that Mr. Herlevi testified that Ms. Harris’ reports to the Sherriff’s department were consistent with what she stated. The Board further finds that Ms. Harris’ reports, located at Exhibit 7 in the Record, are consistent with her other reports about a pattern of harassment by Mr. Solet that made her uncomfortable and fearful. The Board further finds that Ms. Harris testified that she was told to keep her written report to the Sherriff’s department short and that she told the investigating officers details not included in her written report that were, in fact, consistent with her other reports.
- The Referee’s finding that Mr. Herlevi did not find Ms. Harris to be credible is in error. The Board finds that Mr. Herlevi testified that certain aspects of Mr. Harris’ testimony were credible. The Board further finds that Mr. Herlevi also testified that only parts of Mr. Solet’s statements were credible.
- The Board finds the Referee’s finding that Ms. White did not produce text messages to Mr. Herlevi to be in error. The Board finds that Mr. Herlevi testified that Ms. White showed him copies of texts that Ms. Harris had forwarded to her and that copies of these text messages are included in his interview notes at Exhibit 7.
- The Referee’s finding that neither Ms. Zaborski nor Ms. McConnell ever verbally complained of harassment by Mr. Solet is in error. The Board finds that both Ms. McConnell complained of inappropriate behavior by Mr. Solet during their interviews with HR on Call.
- The Referee’s finding that HR on Call interviewed Mr. Solet before it knew of the accusations of Ms. Zaborski and Ms. McConnell is in error. The Board finds that

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HR on Call interviewed Ms. Zaborski on January 4, 2008 and Mr. Solet on January 18, 2008.

- The Referee's finding that Mr. Solet was never asked to address the allegation that he asked Ms. Zaborski and Ms. McConnell for drinks is in error, as is the finding that Mr. Solet was only asked if he "did anything inappropriate." The Board finds that Exhibit 7 establishes that on January 18, 2008, HR on Call specifically asked Mr. Solet if he ever asked any employee other than Ms. Harris to go drinking with him and that Mr. Solet responded "No." The Board further finds that as of January 18, 2008, both Ms. Zaborski and Ms. McConnell were employees of the District. The Board further finds that Mr. Herlevi testified that, based upon his experience, he would not have expected Mr. Solet's answer to have changed if he was provided a the name of a specific employee.
- The Referee's finding that Ms. McConnell did not report Mr. Solet's statement that his wife was married but he was not is in error. The Board finds that Ms. McConnell reported this statement to HR on Call during the course of its investigation. The Board further finds that Ms. McConnell testified that Mr. Solet's attentions toward her were noted by her colleagues and that his behavior was inappropriate.
- The Referee's failure to acknowledge the nature and extent of Mr. Solet's propositions to Ms. Zaborski is in error. The Board finds that Mr. Solet asked Ms. Zaborski to go drinking with him somewhere away from the district on multiple occasions, that he asked her what her husband would think of them going for drinks, and that he sent her a text message stating that he was at a strip club and saw someone that reminded him of her.
- The Referee's finding that the Board failed to produce evidence that Mr. Solet's conduct had the effect of creating discomfort and humiliation of another is in error. The Board finds that Ms. Zaborski testified that Mr. Solet's behavior made her uncomfortable and caused her to stay in her office, to avoid contact with him, to consider calling in sick to avoid him, and to take vacation time to escape her work environment. The Board further finds that Ms. Harris testified that Mr. Solet's behavior made her uncomfortable, that if she had to work with him again that she would be afraid and uncomfortable, and that because he previously threatened her job if she reported his conduct, her job would be in jeopardy.
- The Referee's finding that the Board could not consider the complaints of Ms. McConnell and Ms. Zaborski in considering the termination of Mr. Solet because they did not make verbal or written allegations or charges of harassment to be in error. The Board finds that this finding directly contradicts the Referee's earlier assertions about what is required by the Policy and AG 3362; i.e. that a formal complaint is not required. The Board further finds that both Ms. McConnell and Ms. Zaborski made allegations of harassment against Mr. Solet during the HR on Call investigation.
- The Referee's finding that the Record contains no evidence of willful and persistent violation of Board Policy or immorality is in error. The Board finds that there is ample evidence in the Record establishing that Mr. Solet repeatedly, across three subordinate employees, engaged in conduct that violated Policy and AG 3362.
- The Referee's failure to fully identify the language of Policy 3362 is in error. The Board finds that the Referee's selective reading and reliance upon only portions of Policy and AG 3362 is in error. The Board further finds that the Record contains the entirety of Policy and AG 3362.
- The Referee's failure to acknowledge Mr. Solet's criminal conviction was in error. The Board finds that Mr. Solet entered a plea of no contest to disorderly

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conduct in a school or safety zone and that, as a result, Mr. Solet was ordered to have no additional contact with Ms. Harris for a period of two years. The Board further finds that Mr. Daniels testified that the Board properly adopted Exhibit 13, an Amended Resolution to Consider the Termination of Mr. Solet based upon this criminal conviction.

WHEREAS, the Board finds that because of the Referee's failure to set forth separate and distinct findings of fact, and because many "facts" are interwoven with opinions and determinations regarding their significance, it is unable to identify with any degree of specificity those portions of the Report with which it agrees, but nevertheless attempts to do so as follows:

- The Board finds that the Report is correct insofar as it summarizes the portion of the HR on Call report that found that the number of calls between Mr. Solet and Ms. Harris was unprofessional and inappropriate for a person in the position of chief executive officer, that such behavior can create a hostile environment in violation of Policy 3362, and that Solet's failure to take prompt action against Ms. Harris for her alleged harassment also violated Policy 3362.
- The Board finds that the Report is correct insofar as it acknowledges that Mr. Solet and Ms. Harris were in his vehicle after business hours on Board property on the evening of December 5, 2007.
- The Board finds that the Referee's Report is correct in finding that Mr. Solet asked Ms. McConnell for drinks, told her that his wife was married but he was not, and that she believed his conduct to be improper and unprofessional.
- The Board finds that the Referee's Report is correct in finding that Mr. Solet asked Ms. Zaborski for drinks on several occasions; and

WHEREAS, the Board finds that the Referee failed to accurately, or with rational or legal bases, determine the significance of the facts before him; and

WHEREAS, the Board finds that Mr. Solet failed to testify during the hearing or to otherwise present any evidence to contradict the allegations levied against him, and that, as a result, the Referee was presented with no evidentiary conflicts and was not required to weigh the credibility of Mr. Solet; and

WHEREAS, the Board finds that the Referee erred in finding that Mr. Solet's conduct as it relates to Ms. Harris was not sexual in nature. The Board finds that Mr. Solet repeatedly asked Ms. Harris to go drinking, that he sent her text messages that were subtly sexual in nature, as well as text messages that were overtly sexual in nature in that they requested that she transmit sexual images to him by text and suggested that he wanted to have sex with her, and that he threatened her employment if she filed a report of sexual harassment. These actions are all sexual in nature; and

WHEREAS, the Board finds that the Referee erred in finding that Mr. Solet's conduct as it relates to Ms. Zaborski was not sexual in nature. The Board finds that Mr. Solet asked Ms. Zaborski to go drinking on several occasions, that he made reference to what her husband would think of the two of them drinking alone, and that he informed Ms. Zaborski that he had been at a strip club and that he saw someone that reminded him of her while he was there. The actions are all sexual in nature; and

WHEREAS, the Board finds that the Referee erred in finding that Mr. Solet's conduct as it relates to Ms. McConnell was not sexual in nature. The Board finds that Mr. Solet directed unwanted attention toward Ms. McConnell by too frequently visiting her room without reason and that this behavior became the source of unwelcome commentary amongst Ms. McConnell's coworkers. The Board also finds that Mr. Solet suggested to Ms. McConnell that he was not married although his wife was, that she interpreted this comment to have been made to see if she was interested in him, that Mr. Solet also asked Ms. McConnell to go drinking with him somewhere away from the District so that it wouldn't start rumors. The Board finds that these actions are all sexual in nature; and

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WHEREAS, the Board finds that the pattern of conduct Mr. Solet engaged in across the three aforementioned employees separately and together constitute willful and repeated violations of Policy and AG 3362; and

WHEREAS, the Board finds that Mr. Solet's behavior and corresponding violation of reasonable Board regulations was hostile to the welfare of the school community and adversely impacted his ability to lead the District; and

WHEREAS, the Board finds that the Referee's failure to find that Mr. Solet recommended Ms. Harris for the part-time cafeteria was directly related to his intention to increase the amount of contact he had with her and to continue his pattern of harassing conduct was in error, as was his failure to recognize that Mr. Solet's recommendation of Ms. Harris is further indicative of his propensity to lie. Mr. Solet recommended Ms. Harris eight days after he later alleged that she sexually harassed him. The Board finds that Mr. Solet either lied when he represented to the Board on November 28, 2007, that Ms. Harris was a model employee with whom he had experienced no problems, or that he lied about Ms. Harris' alleged sexual harassment of him on November 20, 2007, in his report dated January 15, 2008; and

WHEREAS, the Board finds that the Referee erred in failing to recognize the significance of Mr. Solet's recommendation of Ms. Harris for the part-time cafeteria position. The Board finds that Mr. Solet's recommendation of Ms. Harris establishes that he was willing to reward Ms. Harris' willingness to tolerate his sexual overtures by recommending her for additional employment regardless of whether her employment was in the best interest of the District; and

WHEREAS, the Board finds that the Referee erred in failing to recognize the significance of Mr. Solet's failure to report the alleged conduct of Ms. Harris on November 20, 2007, and December 5, 2007, until January 15, 2008. The Board finds that Mr. Solet's report of January 15, 2008 violates Policy and AG 3362 and further undermined his ability to lead the District. The Board finds that Mr. Solet, as chief executive officer of the District, is charged with knowledge of Board Policy and Administrative Guidelines, and that his failure to implement and enforce them until it became strategically advantageous to do so is inexcusable; and

WHEREAS, the Board finds that the Referee erred in failing to recognize the significance of the misrepresentations made by Mr. Solet in his January 15, 2008 report. The Board finds that Mr. Solet's statement that he has had no further contact with Ms. Harris since they parted company on the evening of December 5, 2007, to be false, as Ms. Harris' phone records establish that Mr. Solet called her multiple times thereafter, including one call at 10:00 p.m. that same evening that lasted 12 minutes. The Board further finds that these phone records indicate that Mr. Solet wholly failed to heed the directive of the Board to have no contact with Ms. Harris after the Board received knowledge of her verbal complaint of harassment to Mr. Robson ; and

WHEREAS, the Board finds that the Referee erred in failing to recognize the significance of the calls made by Mr. Solet to Ms. Harris. The Board finds that the number, frequency, and duration of calls Mr. Solet made to Ms. Harris indicate that they were not made in furtherance of a legitimate work-related purpose. The Board further finds that although Mr. Solet had the ability to make recommendations regarding Ms. Harris employment, as well as to direct and control her employment duties, that Ms. Harris' bus driving schedule was not controlled by Mr. Solet, but by Patty Martz and Ms. Zaborski, and that Ms. Harris was supervised in her cafeteria position by Cynthia Jerome. The Board therefore finds, in the absence of any testimony or evidence presented to the contrary of Ms. Harris' testimony, that the content of these phone calls was inappropriate and in violation of Policy and AG 3362; and

WHEREAS, the Board finds that the Referee erred in determining that Mr. Solet's conduct did not adversely affect the employment of any individual. The Board finds that both Ms. Zaborski and Ms. Harris were made to feel very uncomfortable by Mr. Solet's sexualized conduct and that Ms. Zaborski even altered her behavior so as to avoid contact with Mr. Solet and took vacation time to avoid him as well; and

WHEREAS, the Board finds that Mr. Solet's conduct was hostile to the welfare of the school community; and

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WHEREAS, the Board finds that Mr. Solet's conduct undermined his ability to effectively execute his job duties and to effectively lead the District; and

WHEREAS, the Board finds that the Referee erred in relying on, without proper citation to, the case of *Bertolini v. Whitehall City Sch. Dist. Bd. of Edn.*, 744 N.E.2d 1245, 139 Ohio St.3d 595 (Ohio App 10th Dist.). The Board finds that while under the specific facts of that case the court determined that an associate superintendent's adulterous affair with another employee was not grounds for termination, this determination was made in the absence of evidence that the relationship was hostile to the welfare of the school community or had a serious impact on his professional duties. The Board finds that this case is highly distinguishable from the one before it. First, the employee with whom Bertolini had an affair testified that her employment was never conditioned upon their relationship and that she acknowledge that the relationship was consensual, that she never considered filing a complaint against him, and that his e-mails to her were not causing her problems at work. Second, Bertolini was not subject to criminal sanctions for his conduct. The Board finds that Mr. Solet and Ms. Harris were not participating in a consensual adulterous affair. The Board further finds that Mr. Solet conditioned Ms. Harris' employment upon their relationship by recommending her for the cafeteria position so that he could further their relationship and by threatening her job if she filed charges of harassment. The Board further finds that Ms. Harris did file a complaint against him, and testified that she was uncomfortable and felt that her job would be in jeopardy if she failed to tolerate or reported his behavior. The Board further finds that Mr. Solet was subject to criminal sanctions for his behavior toward Ms. Harris and pled no contest to disorderly conduct in a school or safety zone and that, as a result, Mr. Solet was initially ordered to have no additional contact with Ms. Harris for a period of two years. The Board further finds that ample evidence is present in the Record to support the fact that Mr. Solet's behavior was hostile to the welfare of the school community and severely adversely impacted his ability to effectively lead the District. The Board further finds that unlike Bertolini, who had a good employment record prior to his termination, Mr. Solet was only employed by the Board for a very short period of time, and the Record establishes that Mr. Solet began to engage in inappropriate and sexualized conduct almost immediately upon his employment; and

WHEREAS, the Board finds that the Referee erred in relying on, without proper citation to, the case of *Bertolini v. Whitehall City Sch. Dist. Bd. of Edn.* for the proposition that the "administrator as a role model for the children is a standard that should not be used." The Board did not consider Mr. Solet's termination solely or even primarily because it was concerned with his ability to be a role model to the children of the District. The Board finds that Mr. Solet's conduct was hostile to the welfare of the community and adversely impacted his ability to effective perform his employment duties and to lead the District without regard to his ability to serve as a role model for students, although this ability has also been seriously called into question; and

NOW THEREFORE BE IT RESOLVED that the grounds specified in this Resolution, constitute separate, distinct and independently sufficient grounds for termination of employment. Each act is in contravention of Ohio Revised Code § 3319.16 and, standing alone or separately, constitutes other good and just cause for contract termination.

BE IT FURTHER RESOLVED that the grounds specified in this Resolution, constitute separate, distinct and independently sufficient grounds for termination of employment. Each act is in contravention of Ohio Revised Code § 3319.16 and, standing alone or separately, constitutes immorality and willful and persistent violations of reasonable regulations of the Board.

BE IT FURTHER RESOLVED that other good and just cause for the termination of a superintendent contract may be based upon events that occurred outside of school, in both location and time, and acts not of or about the school setting.

BE IT FURTHER RESOLVED that in the judgment of the Board the character of the conduct described above was such that it warranted immediate suspension and therefore Mr. Solet, pursuant to Ohio Revised Code § 3319.16, was suspended without pay or benefits

RECORD OF PROCEEDINGS

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effective 12:01 a.m. on February 28, 2008, pending final action by the Board of Education to consider termination of his employment contracts.

BE IT FURTHER RESOLVED that the Board having fully considered the allegations in this matter and having found the specifications set forth in this Resolution constitutes a full specification of the grounds considered by the Board in deciding to terminate the employment contract of Mr. Solet pursuant to Ohio Revised Code Section 3319.16.

BE IT FURTHER RESOLVED that the Board shall terminate any and all employment contracts that Mr. Solet has with the Board of Education of the Western Reserve Local School District effective immediately.

BE IT FURTHER RESOLVED that the Board authorizes and directs the Treasurer to provide Mr. Solet with written notice of this action terminating of his contract by providing him with a copy of this Resolution, which contains a full specification of the grounds for such action terminating any and all of Mr. Solet's employment contracts with the Board of Education of the Western Reserve Local School District.

BE IT FURTHER RESOLVED that it is hereby found and determined that all formal action of the Board of Education concerning and relating to the adoption of this Resolution were adopted in an open meeting of the Board, and that all deliberations of the Board and any of its committees that resulted in such formal action were open to the public when required by law, in full compliance with the law.

Mrs. Pickett--yes, Mr. Daniels--yes, Mr. Blair--yes, Mrs. Fannin--yes, Mr. Todd--yes.
Motion passed.

Mr. Daniels moved, seconded by Mr. Blair, the meeting adjourn.
Mrs. Pickett--yes, Mr. Daniels--yes, Mr. Blair--yes, Mrs. Fannin--yes, Mr. Todd--yes.
Motion passed.

Meeting adjourned at 10:18 p.m.

Board President

Board Treasurer