

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

RICHARD J. FERENCHAK)
115 Longview Circle)
North Lima, Ohio 44452,)

PLAINTIFF/PETITIONER,)

VS.)

SOUTH RANGE LOCAL SCHOOL DISTRICT)
11300 Columbiana-Canfield Rd. Suite B)
Canfield, Ohio 44406,)

AND)

SOUTH RANGE LOCAL BOARD)
OF EDUCATION)
11300 Columbiana-Canfield Rd. Suite B)
Canfield, Ohio 44406,)

AND)

RALPH WINCE)
President and Board Member)
South Range Local Board of Education)
11300 Columbiana-Canfield Rd., Suite B)
Canfield, Ohio 44406,)

AND)

JEFF GOOD, Board Member)
South Range Local Board of Education)
11300 Columbiana-Canfield Rd., Suite B)
Canfield, Ohio 44406)

AND)

DALE MURRAY, Board Member)
South Range Local Board of Education)
11300 Columbiana-Canfield Rd., Suite B)
Canfield, Ohio 44406)

AND)

CASE # _____

JUDGE _____

COMPLAINT
FOR
INJUNCTION

ED PIERSON, Board Member)
 South Range Local Board of Education)
 11300 Columbiana-Canfield Rd., Suite B)
 Canfield, Ohio 44406,)
)
 DEFENDANTS/ RESPONDENTS.)

Now comes Plaintiff/Petitioner Richard J. Ferenchak, by and through undersigned counsel, and for his Complaint, states as follows:

1. The South Range Local School District is a school district, governmental entity and political subdivision of the State of Ohio located in Mahoning County, Ohio.

2. The South Range Local School District is governed by the South Range Local Board of Education which is a public body as defined in Ohio Revised Code § 121.22(B)(1)(a) operating in Mahoning County, Ohio.

3. Ralph Wince is and was President and Board Member of the South Range Local Board of Education and a public official at all times relevant to this case.

4. Jeff Good, Dale Murray and Ed Pierson were and are Board Members of the South Range Local Board of Education and public officials at all times relevant to this case.

5. Richard J. Ferenchak is and was a person residing in Mahoning County, Ohio at all times relevant to this case.

6. A Board Member of the South Range Local Board of Education known as Bruce Zinz resigned from the Board and vacated his position on or about February 16, 2015.

7. When a vacancy on the South Range Local Board of Education occurs, the Board, through the remaining Board Members, is, pursuant to South Range Local School District Bylaws and Policies § 145, required to seek candidates, interview all candidates and fill the vacancy by majority vote within thirty (30) days after the vacancy occurs.

8. Should the Board fail to validly appoint a member within thirty (30) days after the vacancy occurs, the Mahoning County Probate Court shall, pursuant to South Range Local School District Bylaws and Policies § 145, assume the duty imposed on the Board and fill the vacancy.

9. Six (6) applicants submitted a notice of their interest in being appointed to the vacancy to the South Range Local School District Superintendent.

10. Those six applicants were: Richard Ferenchak, Amy White, Todd Fowler, Bethany Carlson, Ed Cvelbar and Laura Witmer.

11. Ohio Revised Code § 121.22(A) requires public bodies and public officials, such as Defendants/Respondents, "to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law."

12. Ohio Revised Code §121.22(G) authorizes public bodies to hold an executive session in private in certain circumstances. Such private, executive sessions, however, may only be held "after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session. . . ."

13. Executive sessions may be held for only a few specific purposes, and no vote or other decision on the matter(s) discussed may take place during the executive session.

14. On or about March 7, 2015, Board Member Ralph Wince contacted Plaintiff/Petitioner Richard J. Ferenchak by telephone and informed him that the South Range Local School Board ("Board") had decided to only interview two applicants and that he was not one of them.

15. The determination to only interview two applicants and reject the remaining applications from consideration constitutes deliberations upon official business and was an official action, official decision and formal action taken in other than an Open Meeting.

16. No vote to go into executive session on or about March 7, 2015 or in regard to limiting the number of interviews or excluding applicants was ever conducted by the Board.

17. The decisions made by the Board on or about March 7, 2015 to limit the number of interviews to two and exclude the remaining four applicants from further consideration were actions in violation of the Open Meetings Act and Ohio Revised Code § 121.22 and, therefore, invalid.

18. The decisions made by the Board on or about March 7, 2015 to limit the number of interviews to two and exclude the remaining four applicants from further consideration were actions in violation of South Range Local School District Bylaws and Policies § 145.

19. On or about March 12, 2015, the Board voted at a Special Meeting to go into executive session "for the purpose of interviewing and considering the appointment of a board member to fill the unexpired term that was vacated by Bruce Zinz on February 16, 2015."

20. At said executive session, the Board interviewed two candidates.

21. At said executive session, the Board took formal action in that the Board and Board Members reached a collective decision/consensus to appoint applicant Amy White to the vacancy.

22. A public body may not take any formal action, such as voting or otherwise reaching a collective decision, in an executive session.

23. Any formal action taken in an executive session is invalid.

24. The collective decision of the Board to appoint Amy White to the vacancy was and is invalid and a violation of the Open Meetings Act and Ohio Revised Code § 121.22.

25. Subsequent to the March 12, 2015 executive session but prior to any Open Meeting, the Board had prepared a nameplate designating Amy White as a Board Member.

26. Subsequent to the March 12, 2015 executive session but prior to any Open Meeting, the Board had prepared a Proposed Resolution and Oath of Office for Amy White to serve in the vacant position.

27. On or about March 16, 2015 at a Regular Meeting of the Board which was open to the public, the Board voted on the record to appoint Amy White to the vacancy.

28. A subsequent vote at an open meeting which serves only to confirm the collective decision/consensus reached on March 12, 2015 in violation of the Open Meetings Act does not cure or resolve the violation.

29. The appointment of Amy White was invalid and made in violation of the Open Meetings Act.

30. After the obvious violation of the Open Meetings Act was exposed by the local media including The Vindicator, Amy White abruptly "resigned" from the Board on March 31, 2015.

31. The "resignation" does not cure or resolve the violation because it, if anything, assumes that the invalid action of appointment was valid.

32. Any attempt to "cure" the violation requires at a minimum that the invalid action be rescinded, vacated and/or acknowledged as invalid.

33. South Range Local School District Bylaws and Policies § 145 explicitly states:

“If the Board fails to appoint a member to its Board within thirty (30) days after the vacancy occurs, the probate court of the county, upon being advised of the failure to fill the vacancy shall act as the Board and perform the duties imposed upon the Board.”

34. As the action purporting to appoint Amy White to the Board was invalid and more than thirty (30) days have passed since former Board Member Bruce Zinz resigned, the Board itself no longer has the authority to fill that vacancy because only the Mahoning County Probate Judge has the authority to fill the vacancy.

35. The Board’s refusal to rescind or vacate its invalid action of appointing Amy White while she instead resigns is merely a cynical attempt to deflect unwanted attention and criticism regarding its illegal actions and seek to preserve the Board’s authority to fill the vacancy.

36. By seeking to benefit from its own illegal and invalid actions, the Board is further compounding its violations of Ohio Revised Code § 121.22, the Open Meetings Act and its own Bylaws and Policies.

37. Pursuant to Ohio Revised Code § 121.22(I), Plaintiff/Petitioner is entitled to an injunction compelling the Defendants/Respondents to comply with the Open Meetings Act and particularly Ohio Revised Code § 121.22.

38. Plaintiff/Petitioner suffered irreparable harm and prejudice as a result of the above-described violations by Defendants/Respondents.

WHEREFORE, for all the foregoing reasons, Plaintiff/Petitioner seeks the following relief:

A. A finding that the formal action taken by Defendants/Respondents on March 7, 2015 in making the collective decision to limit interviews and exclude applicants made other than at an open meeting was a violation of the Open Meetings Act and Ohio Revised Code § 121.22;

B. A finding that the formal action taken by Defendant/Respondents on March 12, 2015 in making the collective decision to appoint Amy White to fill the Board vacancy in an executive session and at other than an open meeting was a violation of the Open Meetings Act and Ohio Revised Code § 121.22;

C. A finding that the above-described March 7, 2015 formal action is and was invalid;

D. A finding that the above-described March 12, 2015 formal action of making the collective decision to appoint Amy White to fill the Board vacancy was invalid;

E. A fine of Five Hundred Dollars (\$500.00) be imposed on Defendants/Respondents as a result of the above-described March 7, 2015 invalid action taken in violation of the Open Meetings Act and Ohio Revised Code § 121.22;

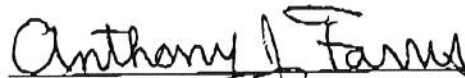
F. A fine of Five Hundred Dollars (\$500.00) be imposed on Defendants/Respondents as a result of the above-described March 12, 2015 invalid action taken in violation of the Open Meetings Act and Ohio Revised Code § 121.22;

G. An injunction compelling Defendants/Respondents to comply with the Open Meetings Act and Ohio Revised Code § 121.22

H. An award of court costs and reasonable attorney fees.

I. Such other and further relief as the Court deems appropriate.

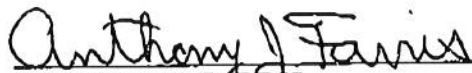
Respectfully submitted,



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INSTRUCTIONS TO THE CLERK

Please serve a copy of the Summons and Complaint on each of the name
Defendants/Respondents at the address listed in the caption by certified mail, return
receipt requested.



ANTHONY J. FARRIS
Attorney for Plaintiff/Petitioner