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February 27, 2012

Jessica F. Cohen, Ph. D.
District Superintendent
Onondaga-Cortland-Madison BOCES
6820 Thompson Road
P.O. Box 4754
Syracuse, New York 13221-4754

Re: Election of BOCES Board Members

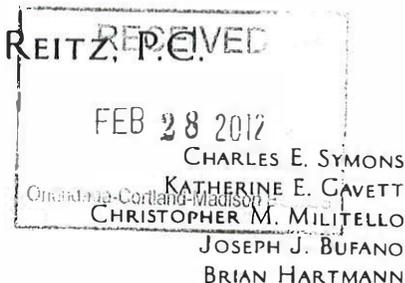
Dear Dr. Cohen:

This letter is in response to your request for a letter summarizing the applicable provisions of law relating to the nomination and election of the members of the BOCES Board. When the 1993 BOCES Reform law was passed a number of years ago, the statute relating to the election of BOCES Board members was modified to the present provisions.

The statute sets forth that nominations must be made by the component school board and transmitted to the BOCES Clerk by no later than thirty (30) days prior to the annual BOCES meeting. For the OCM BOCES, there cannot be any more than one member of the BOCES Board from any component school within the BOCES. The only time that a component school board can nominate a person to the BOCES Board when it already has representative on the BOCES Board is if the term of office for the person already on the BOCES Board is expiring.

For example, if there is a BOCES Board member from North Syracuse, the North Syracuse Central School District can only nominate a candidate residing within North Syracuse if the term of office for the BOCES Board member from North Syracuse is scheduled to end the June following the annual meeting. Other than this limitation, any school board can nominate a candidate for the BOCES Board.

When the candidates are nominated, each component board is entitled to one vote for each vacant office to be filled. Thus, a board of education with nine members still has the same number of votes (one for each seat) as a school board with five members. Similarly, the component school district with the smallest student population has the same number of votes as the component school district with the largest student population. Thus, if there are three



OF COUNSEL
DAVID W. LARRISON
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vacancies on the BOCES Board, McGraw as one of the smallest of your components has the same three votes as North Syracuse, which is one of your largest components.

If there are more candidates nominated than there are vacant seats, the candidates elected are the candidates receiving the highest number of votes cast for the seats, provided, however, that if more than one candidate from the same component school district has been nominated, only one candidate from such school district can be elected even if the second place finisher from that school district receives more votes than a candidate who resides in a school district where he/she is the only nominee. If there is a tie vote, and the number of candidates in the tie vote is greater than the number of vacancies remaining, then a run-off election among such candidates must be held within twenty (20) days of the initial vote. For example, if there are 3 vacancies and 6 candidates with candidate A receiving 10 votes, candidate B receiving 9 votes, candidates C, D and E receiving 7 votes and candidate F receiving 5 votes, there would be a runoff, for one seat, between candidates C, D and E.

Also, if there are terms of varying lengths as a result of a vacancy on the Board having been filled prior to the annual meeting, the candidates with the highest number of votes receive the longest terms of office. Using the example above, if there were two 3-year terms, and one 2-year term, candidates A and B would be elected to the 3-year terms and the run-off between candidates C, D and E would be for the 2-year term.

We are aware that, just as in some component school districts, sometimes there is a "gentleman's agreement" with respect to the representatives on the BOCES Board. In the component school districts, there might be an understanding that each geographical portion of the school district will be represented, and in the BOCES there may be an understanding that Board seats may be allocated in some generally agreeable manner based upon the number of component schools within the BOCES and the relative student size of the various component school districts. However, while there may be a valid basis for such "gentleman's agreement", there is no basis in law for enforcing such a "gentleman's agreement". Each component school board has the right, each year, to nominate a resident of its school district provided it is not currently represented on the BOCES Board, or if it is, the term of such representative expires in the June following the annual meeting.

If after review of this letter you have any further questions, please feel free to contact me.

Very truly yours,

FERRARA, FIORENZA, LARRISON, BARRETT & REITZ, P.C.



Marc H. Reitz

MHR/cg



V. Ann Wright
President, OCM BOCES Board of Education
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Memorandum

TO: ^{am} Presidents, Component District Boards of Education
FROM: Ann Wright, President, OCM BOCES Board of Education
SUBJ: OCM BOCES Board of Education Election Procedures
DATE: March 26, 2012

The OCM BOCES Board of Education received a request from Marissa Mims, President of the Fayetteville-Manlius Board of Education, to update, in accordance with the changing district enrollments, the "Gentleman's Agreement" that has guided the OCM BOCES Board election process for the past 27 years.

Background. The Gentleman's Agreement was developed more than 27 years ago to ensure that all districts had representation on the BOCES Board, regardless of their enrollment. When the Onondaga-Madison and the Cortland-Madison BOCES merged, the Superintendents and the Board Presidents from the 23 districts informally agreed that there would be a process for the election of board members that ensured representation of both districts from all three counties as well as from rural and suburban districts. The five largest districts in the BOCES region - North Syracuse, Liverpool, Baldwinsville, West Genesee and East Syracuse, were to each have one seat on the eleven member board and the remaining six seats would be shared by other districts on the basis of geography. (Cortland and Homer would have a seat, Marathon, McGraw, and Cincinnatus would share a seat, LaFayette, Tully, and Fabius-Pompey would have a seat, Fayetteville-Manlius and Jamesville-Dewitt would share a seat, Onondaga Central, Solvay, Marcellus, Westhill, and Lyncourt would share a seat, and DeRuyter, Cazenovia, and Chittenango would share a seat). This was an informal "handshake" agreement. It does not appear that there was a formal agreement signed by each district that provided for procedures to follow in the event of enrollment or other change.

Request. The Fayetteville-Manlius Board is requesting that since their enrollment has now exceeded that of East Syracuse Minoa, thereby becoming the fifth largest in the region, that the "Gentleman's Agreement" should be updated and the Fayetteville-Manlius Board should be assigned a dedicated seat. They have indicated that this could be done by enlarging the BOCES Board, by having East Syracuse Minoa share a seat with Jamesville-Dewitt, or by some other means. They further request that this change be put into effect by July 1, 2013.

Legal Opinion. Because the Education Law regarding BOCES Board elections was changed in 1993 since the development of the “Gentleman’s Agreement,” we requested an opinion from our attorney on the ways to proceed with this request. In the opinion, Mr. Reitz indicates that:

We are aware that, just as in some component school districts, sometimes there is a “gentleman’s” agreement’ with respect to the representatives on the BOCES Board. In the component school districts, there might be an understanding that each geographical portion of the school district will be represented, and in the BOCES there may be an understanding that Board seats may be allocated in some generally agreeable manner based upon the number of component schools within the BOCES and the relative student size of the various component school districts. However, while there may be a valid basis for such “gentleman’s agreement,” there is no basis in law for enforcing such a “gentleman’s agreement.” Each component school board has the right, each year, to nominate a resident of its school district provided it is not currently represented on the BOCES Board, or if it is, the term of such representative expires in the June following the Annual Meeting.

We are attaching a copy of the opinion from Marc Reitz, Esq. from the Ferrara, Fiorenza, Larrison, Barrett & Reitz firm.

Education Law 1950 also indicates that a BOCES Board of Education may be between 5 and 15 members. Any change in the size of a BOCES Board of Education requires the approval of the Commissioner of Education. The OCM BOCES Board is currently 11 members.

Options. Since the Gentleman’s Agreement was an agreement of the Component Boards, the OCM BOCES Board does not believe that it may change either the allocation of seats or the agreement without the agreement from the 23 component boards of education. To accomplish this, the OCM BOCES Board is proposing a two prong approach. To begin the discussions, the topic will be on the agenda of the OCM BOCES Annual Meeting to which all boards are invited. The meeting is scheduled to be held on April 4, 2012 at the Henry Campus in Syracuse and will begin with dinner at 6:00 pm and the meeting at 7:00 pm. In addition, we propose that, in the spirit of the “gentleman’s agreement” created in the mid-80’s, a meeting of all component board presidents and superintendents as well as BOCES Board members be convened to discuss and address the issues identified by Fayetteville-Manlius.

The OCM BOCES Board of Education also wants to remind all component boards of education that, despite the existence of the “Gentleman’s Agreement” it is legal for any board without a current representative on the board to make a nomination for the BOCES Board of Education.

If you have any questions about these issues, please feel free to contact me. I look forward to seeing you at our Annual Meeting on April 4. Please call Theresa Smith at 315-433-2602 to make a reservation for dinner and for the meeting.

Enc.

C: OCM BOCES Board of Education Members
Component District Superintendents