



CV-2021-835
PRWCE

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA

MATHEW HAMRICK, Individually)
 and in his official capacity)
)
 Plaintiff,)
 vs.)
)
 (1) OKLAHOMA STATEWIDE VIRTUAL)
 CHARTER SCHOOL BOARD, and)
 (2) ROBERT FRANKLIN, individually and)
 in his official capacity,)
 (3) BARRY BEAUCHAMP, individually and)
 in his official capacity,)
 (4) BRANDON TATUM, individually and)
 in his official capacity,)
 (5) REBECCA L. WILKINSON, individually and)
 in her official capacity.)
)
 Defendants,)

CV-2021-835

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

APR 13 2021

RICK WARREN
COURT CLERK

124 _____

PETITION

COMES now Plaintiff, Mathew Hamrick, by and through his attorney of record
and for his claims against Defendants, states as follows:

JURISDICTIONAL ALLEGATIONS

1. The Court has jurisdiction to consider and grant Plaintiff's request for declaratory and injunctive relief pursuant to OKLA. STAT. tit 12, § 133.
2. Plaintiff, Mathew Hamrick is currently and was, at the time of the actions giving rise to this litigation, serving on the Oklahoma Statewide Virtual Charter School Board representing over 700,000 individuals residing in the Third Congressional District.

3. Defendant, Oklahoma Statewide Virtual Charter School Board (hereinafter "Board"), is a state agency conducting business in Oklahoma County, State of Oklahoma formed pursuant to OKLA. STAT. tit 70, § 3-145.1.
4. Defendant, Robert Franklin, is currently and was, at the time of the actions giving rise to this litigation, serving on the Oklahoma Statewide Virtual Charter School Board representing the First Congressional District.
5. Defendant, Barry Beauchamp, is currently and was, at the time of the actions giving rise to this litigation, serving on the Oklahoma Statewide Virtual Charter School Board representing the Fourth Congressional District.
6. Defendant, Brandon Tatum, is currently and was, at the time of the actions giving rise to this litigation, serving on the Oklahoma Statewide Virtual Charter School Board representing the Fifth Congressional District.
7. Defendant, Rebecca L. Wilkinson, is currently and was, at the time of the actions giving rise to this litigation, serving as the Executive Director for the Oklahoma Statewide Virtual Charter School Board.

FACTUAL ALLEGATIONS

8. The allegations contained in paragraphs 1-7 are adopted and restated herein.
9. On December 8, 2020 Defendants, Franklin, Beauchamp, and Tatum voted to disqualify Plaintiff in clear violation of the Administrative Procedures Act and Open Meetings Act.
10. Former Chairman John D. Harrington placed Plaintiff's recusal on the October 11, 2020 agenda following the release of the State Audit of Epic One-on-One Charter School on October 1, 2020.

11. Due to exposure to Covid-19, Plaintiff could not attend the October 11, 2020 meeting.
12. The November 3, 2020 meeting was cancelled.
13. Prior to the December 8, 2020 meeting John D. Harrington was not reappointed to the Board to represent the Fifth Congressional District and was replaced by Defendant Tatum.
14. Defendant Franklin, serving as Acting Chairman, requested the recusal of the Plaintiff be placed on the agenda for the December 8, 2020 meeting.
15. Defendant Wilkinson, under the direction of Defendant Franklin and with the advisement of Assistant Attorney General Marie Schuble, placed Plaintiff's recusal on the December 8, 2020 agenda.
16. There is no mention of a "motion" on the posted agenda for December 8, 2020.
17. After carefully considering whether he should recuse himself from all discussions, debates, and voting on any matter related to Epic One-on-One Charter School, Plaintiff declined.
18. After it was announced Plaintiff would not recuse himself, the Board went off the agenda and Defendant Franklin orally presented a Motion to Disqualify.
19. Once the motion was brought and there was a second, Defendants, Franklin, Beauchamp, and Tatum voted to disqualify Plaintiff.

COUNT I
VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT

20. The allegations contained in the preceding paragraphs are adopted and restated herein.

21. OKLA. STAT. tit 75, § 316, sets out the guidelines for disqualifying a member of a state board.

22. Pursuant to OKLA. STAT. tit 75, § 316:

A hearing examiner or agency member shall withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a hearing examiner or agency member, on the ground of his inability to give a fair and impartial hearing, ***by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.*** The issue shall be determined promptly by the administrative head of the agency, or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing examiner, the agency shall assign another in his stead or shall conduct the hearing itself. Upon the disqualification of a member of an agency, the agency shall proceed with the proceeding if a quorum remains. If a quorum no longer exists, by virtue of the member's disqualification, the Governor immediately shall appoint a member pro tem to sit in place of the disqualified member in that proceeding. In further action, after the disqualification of a member of an agency, the provisions of Section 311 of this title shall apply.

23. At the December 8, 2020, meeting the Board was provided with a copy of OKLA. STAT. tit 75 § 316, and publicly notified their action to disqualify Plaintiff would be a violation of law.

24. Instead of following the law, The Board voted to violate the Oklahoma Administrative Procedures Act:

- a. There was no affidavit filed, let alone an affidavit filed promptly.
- b. There were no legal grounds for disqualification stated.
- c. No particular grounds for the disqualification were given.

25. In fact, what was spoken at the meeting was vague and entirely unspecific as to what exactly the grounds for disqualification were - just that there were “appearance” problems.
26. Plaintiff can only assume the “appearance” problems referenced was the Oklahoma State Auditor’s report (hereinafter “report”) regarding the Oklahoma State Audit of Epic One-on-One Charter School released on October 1, 2020.
27. What was written in the report does not indicate any violation of law nor claim of any specific illegal or unethical activity because there clearly had been no violation.
28. Plaintiff has no material financial interest in Epic One-on-One Charter School and is not engaged in any business relationship with Epic One-on-One Charter School.
29. In fact, out of the members on the Board, Plaintiff is the only one who has no monetary interest in the schools regulated and overseen, their competitors or any group which contracts with those schools.
30. In the report the State Auditor accused Plaintiff of a conflict of interest due to his friendship with David Chaney and a \$200.00 campaign contribution.
31. On June 22, 2017, Plaintiff received a \$200.00 donation from David Chaney for an ill-fated State Senate Campaign.
32. On July 31, 2017, Plaintiff disclosed the donation to the Oklahoma Ethics Commission. Over three (3) years prior to the vote to disqualify!
33. In addition, the Board is under the rules promulgated by the Oklahoma Ethics Commission with regards to ethical behavior and conflicts of interests.

34. There are no rules about campaign contributions creating a conflict of interest. And campaign contributions are not gifts—they have their own rules and their own reporting requirements. The general standard is a campaign contribution does not create a conflict of interest. Even the Judicial Code of Conduct deems contributions within the limits allowed by the Oklahoma Ethics Commission will not normally require disqualification unless other factors are present. OKLA. STAT. tit. 5 § Rule 2.11(4).
35. Finally, the agenda did not specify the relief sought.
36. These failures demonstrate that the Board would have failed in disqualifying Plaintiff if they had followed the proper procedures as Defendants did not have adequate grounds to disqualify Plaintiff but chose to anyway.

COUNT II – VIOLATION OF THE OKLAHOMA OPEN MEETINGS ACT

37. The allegations contained in the preceding paragraphs are adopted and restated herein.
38. In addition, the vote on December 8, 2020 was in violation of the Open Meetings Act, OKLA. STAT. tit 25, § 301-314.
39. The Open Meeting Act is not obscure or incomprehensible. On the contrary, anyone with ten minutes to spare can read the whole thing and understand virtually every word. *Matter of Order Declaring Annexation*, 1981 OK CIV APP 57, ¶ 18, 637 P.2d at 1273.
40. Defendant Wilkinson, under the direction of Defendant Franklin and with the advisement of Marie Schuble, with the Attorney General’s office placed Plaintiff’s recusal on the agenda.

41. After it was determined Plaintiff would not recuse himself, the Board went off the agenda and Defendant Franklin orally presented a Motion to Disqualify.
42. Once the motion was brought and there was a second, Defendants voted to disqualify Plaintiff in clear violation of the Open Meetings Act.
43. There is no mention of a “motion” on the posted agenda.
44. Defendant Franklin could not have intended that the notice of possible “recusal” was really a “motion to disqualify” because none of the statutory requirements for a motion to disqualify were performed as stated in Count I.
45. A member of the public reading the agenda would reasonably expect that the only action to be taken would be for Plaintiff to voluntarily recuse himself.
46. The public was not put on notice from the agenda that there would be a contested motion to disqualify a Board member.
47. Defendants went off the agenda and then proceeded to violate the Administrative Procedures Act as state in Count I.
48. “Recuse” is defined as:
 1. as to disqualify (oneself) as judge in a particular case or
 2. broadly to remove (oneself) from participation to avoid a conflict of interest.

Merriam-Webster.com. 2021. <https://www.merriam-webster.com> (8 April 2021).
49. A recusal would have been based upon Plaintiff’s own action not the actions of the Board.
50. “Disqualification” is defined as:
 - 1: to deprive of the required qualities, properties, or conditions: make unfit
 - 2: to deprive of a power, right, or privilege

3: to make ineligible for a prize or for further competition because of violations of the rules
Merriam-Webster.com. 2021. <https://www.merriam-webster.com> (8 April 2021).

51. Defendant's actions deprived Plaintiff of the power, right and privilege to actively engage on the Board.
52. Pursuant to OKLA. STAT. tit 25 § 313, "Any action taken in willful violation of [The Open Meetings Act] shall be invalid. The word "shall" is a mandatory instruction and is to be followed unless the Court finds that the non-moving party's failure was substantially justified.

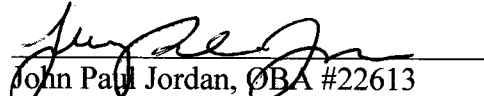
RELIEF REQUESTED

WHEREFORE, Plaintiff seeks the following relief:

53. Plaintiff requests this Honorable Court declare that Defendant Board failed to follow the law and violated the Administrative Procedures Act.
54. Plaintiff requests this Honorable Court declare that Defendant Board failed to follow the law and violated the Open Meetings Act.
55. Plaintiff requests this Honorable Court enjoin Defendant Board from considering any matter related to Epic One-on-One Charter School until Plaintiff's ability to participate in the discussions, debates, and voting on those matters is reinstated.
56. Plaintiff requests this Honorable Court invalidated any actions taken by Defendant Board which relate to Epic One-on-One Charter School since voting to disqualify Plaintiff on December 8, 2020.
57. As Discovery is ongoing Plaintiff reserves the right to amend his *Petition* should new claims be discovered throughout the course of this lawsuit.

58. Plaintiff requests he be awarded his costs, expenses, attorney fees and other such relief as may be equitable and just. pursuant to OKLA. STAT. tit 25 § 314, B. 2. and OKLA. STAT. tit 75 § 318. D. 2.

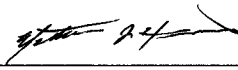
Respectfully Submitted


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ATTORNEYS LIEN CLAIMED

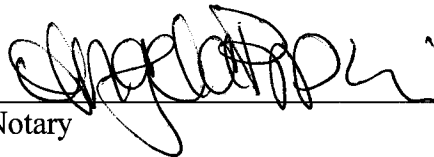
VERIFICATION

I, Mathew Hamrick, under the penalty of perjury pursuant to the laws of the State of Oklahoma, do verify that the above and foregoing is true and correct to the best of my knowledge, information and belief.



Mathew Hamrick, Plaintiff

Subscribed and sworn to before me this 8th day of April, 2021.



Notary



Commission No: 07006637
My Commission Expires: 7-12-2023