

**MILLER PLACE UNION FREE SCHOOL DISTRICT
BOARD OF EDUCATION
BOARD MINUTES
JANUARY 27, 2022**

Kind of Meeting: Business Meeting – Emergency
Place of Meeting: Zoom Meeting
Time of Meeting: 6:45 P.M.

Those Present:

Board President:	Mrs. Johanna Testa
Board Vice President:	Mrs. Lisa Reitan
Board Trustee:	Mr. Keith Frank
Board Trustee:	Mr. Bryan Makarius
Superintendent of Schools:	Dr. Marianne Cartisano
Deputy Superintendent:	Mr. Seth Lipshie
School Business Official:	Mrs. Colleen Card
Executive Director for Educational Services:	Mrs. Sandra Wojnowski
District Clerk:	Mrs. Patricia Morbillo

Those Absent:

Board Trustee:	Mr. Richard Panico
Assistant Superintendent:	Ms. Susan Craddock

Those Invited:

Guercio & Guercio, Partner	Mr. Gregory Gillen
Guercio & Guercio, Associate	Mr. Eric Levine

PLEASE NOTE: THE MINUTES, AS WRITTEN, ARE SUBJECT TO CHANGE AND ARE NOT CONSIDERED AN OFFICIAL RECORD UNTIL THEY HAVE BEEN APPROVED BY THE BOARD OF EDUCATION AT THE FEBRUARY 16, 2022, BUSINESS MEETING.

I. Meeting Called to Order:

Mrs. Testa called the emergency board meeting to order at 6:55 P.M. and asked everyone to rise for the Pledge of Allegiance. The emergency board meeting was called to discuss the Amicus Curiae Brief filed by the Massapequa School District yesterday. Mrs. Testa stated that District’s legal counsel was present at the meeting, and she then introduced Mr. Gillen to explain the resolution the Board of Education would be voting on this evening.

Mr. Gillen stated that in the wake of the Nassau County lawsuit earlier this week, which struck down mask mandates, that currently, the mask mandate matter is pending before the New York State Court of Appeals. The issue that’s being litigated at the present moment is whether a stay of the Nassau County decision should be imposed, meaning that the mask mandates would remain in effect. A local attorney on Long Island by the name of Nicholas Rigano has reached out to several school districts as pro bono counsel to submit an Amicus Curiae Brief on behalf of the school boards arguing that the mask mandates do not remain in effect i.e. that the mask mandates should be allowed to lapse while the appellate division litigates the issue of whether the regulation imposing the mask mandates was properly enacted. So effectively the resolution on the board

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agenda tonight is to vote in terms of whether it wants to appoint Mr. Rigano to serve as pro bono special counsel for the submission of an Amicus Curiae Brief on behalf of the Miller Place Board of Education, to do just that, to argue to the Court that the stay should be allowed to lapse and that the mask mandates should end.

An Amicus Curiae Brief is essentially a “Friend of the Court Brief”. It allows a non-party litigant to submit legal arguments in a proceeding pending before a court, so as to make another party's opinions on the issue heard, or present other legal arguments that the non-party believes may not be as adequately argued or presented to the judge.

As of this afternoon, the brief was already filed on behalf of several school districts on Long Island. Mr. Rigano has said that he will file a supplemental proceeding in the morning allowing additional school boards who are interested in joining this proceeding to sign on to it, to basically say to the judge we have read the brief, we agree with it, we want to be counted in this group of non-party participants for these arguments which are being presented to you.

Mr. Testa thanked Mr. Gillen for reviewing the matter and asked the board members if they had any questions for Mr. Gillen. The board members did not have questions at this time.

II. Resolution to Appoint Pro Bono Legal Counsel- Amicus Curiae Brief:

MOTION: “RESOLVED, that in connection with this special meeting, the Board of Education hereby waives any notice periods required to be given to the members of the Board of Education and/or public in advance of any regular and/or special meeting of the Board as required by any District Policy and/or Regulation; and

BE IT FURTHER RESOLVED, that the Board of Education hereby appoints Nicholas C. Rigano, Esq., of the law firm of Rigano LLC to serve as pro bono special counsel for the Board of Education in connection with a matter discussed in executive session; and

BE IT FURTHER RESOLVED, that the Board of Education authorizes Nicholas C. Rigano, Esq., of the law firm of Rigano LLC to commence any needed pro bono legal action necessary for the submission of an amicus curiae brief on behalf of the Board of Education in connection with the January 28, 2022 hearing in the case of Michael Demetriou, et. al. v. New York State Department of Health, et. al., Docket No. 2022-00532, Index No. 616124/2021, currently pending before the Supreme Court of the State of New York Appellate Division: Second Department, and to submit such amicus curiae brief, at no cost to the Miller Place Union Free School District and/or the Board of Education of the Miller Place Union Free School District; and

BE IT FURTHER RESOLVED that the Board of Education authorizes the President of the Board of Education to execute any necessary pleadings in connection with the above referenced legal action and submission of an amicus curiae brief on behalf of the Board of Education; and

BE IT FURTHER RESOLVED, that the Board of Education hereby approves the pro bono retainer agreement with Nicholas C. Rigano, Esq., of the law firm of Rigano LLC and authorizes

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the President of the Board of Education to execute such retainer agreement, on behalf of the Board of Education.”

Mrs. Testa called for a motion to accept the resolution as presented in a roll call vote.

Mr. Frank moved, seconded by Mr. Makarius.

Discussion: Mrs. Testa stated that she is 100% in favor of mask optional when the New York State Department of Health feels that it’s in the public’s best interest health wise to unmask. She stated that she cares about our community and at the same time, she understands where she has to let the legal process take place. Mrs. Reitan, Mr. Frank, and Mr. Makarius did not make any comments. The roll call vote than proceeded.

<u>Roll Call Vote:</u>	<u>Yes</u>	<u>No</u>
Mrs. Johanna Testa, President	<u> </u>	<u> X </u>
Mrs. Lisa Reitan, Vice President	<u> X </u>	<u> </u>
Mr. Keith J. Frank, Trustee	<u> X </u>	<u> </u>
Mr. Bryan Makarius, Trustee	<u> X </u>	<u> </u>
Mr. Richard Panico, Trustee	<u> ABSENT </u>	

Yes 3; No 1; Motion Carried

III. Adjournment of Meeting:

Mrs. Testa asked for a motion to adjourn meeting.

Mr. Frank moved, seconded by Mr. Makarius to adjourn to meeting at 6:59 P.M.

Yes 3; No 1; Motion Carried

Respectively submitted by Patricia A. Morbillo, District Clerk.