

## **New Dawn Charter High School Board of Trustees Meeting**

**Place:** New Dawn Charter High School  
242 Hoyt Street  
Brooklyn, NY 11217

**Date:** August 16, 2016

**Time:** 1:00 p.m.

**Present:** Esosa Ogbahon, Leslie Winter, Ronald Tabano, Phillip Weitzman

**Absent:** George Crowley, Samir Souidi

**Quorum Met:** Yes

**Staff Members/Visitors Present:** Sara Asmussen, Lisa DiGaudio, Melissa Wilson

Having a quorum, Ronald Tabano called the meeting to order at 1:06 pm.

### **I. Resolution: Minutes from July Meeting**

Dr. Weitzman brought up the issue of disallowing subcommittee members the ability to bind the organization to contracts. He also questioned the section about the Board Treasurer reading as if (s)he is the CFO of the organization. Dr. Asmussen reminded the group that Mr. Crowley had stated at the July meeting that he did not have a problem with the way this section was written, because it stated, "The Board Treasurer will or will cause to ..." A review of the ByLaws will be taken up in a future Board meeting.

**Motion:** Ron Tabano motioned to accept the minutes to be approved.

**Seconded:** Phillip Weitzman

**Vote:** Unanimous

### **II. ADP Total Source and Professional Employers Organization**

Potential Resolution: Bring in a consultant to replace ADP for these services. Dr. Weitzman was asked to put together a list of concerns about ADP. He will get the list to other members. Dr. Weitzman believes that ADP Total Source and Resource are two different companies. He has very big concerns about signing a contract with a co-employment agreement. Phil's written concerns are attached.

### **III. Update to Staff Handbook**

Dr. Asmussen poses the issue that some staff members who have given 30 day notices, are taking a lot of time off thereafter. Initially, 4 personal days are given up front (for bookkeeping purposes only) as well as 8 approved vacation days. However, these days must be earned/accrued one day a month. Dr. Asmussen presented an addendum to the Employee Handbook which clarified that personal and sick days are actually accrued at a rate of one day a month.

**Motion:** Mr. Tabano moved to add new addendum to staff handbook outlining use of personal days.  
**Seconded:** Dr. Weitzman  
**Vote:** Unanimous

#### **IV. Financial**

##### **A. Policy and Procedure**

**Resolution:** Contracts to be approved by the Board of Trustees

Mr. Winter requested that since there were so many contracts that an addendum be added to the Policies and Procedures which allowed Dr. Asmussen to sign contracts for less than \$5,000 and then report on these contracts at the next Board meeting. Mr. Tabano requested a motion.

**Motion:** Dr. Weitzman made a motion to amend the Fiscal Policies and Procedures by adding a clause that Dr. Asmussen can sign contracts that are less than \$5,000 without first obtaining a Board vote. She is expected to report any contracts at the next Board meeting.

**Seconded:** Mr. Winter

**Vote:** Unanimous

#### **V. Contracts**

##### **A. Accounting Solutions**

Accounting Solutions NYC submitted a contract for Financial Services. The amount and the types of services remain the same from the prior year. Dr. Asmussen reported satisfaction with the financial services over the last year due to the fact ASNYC had fulfilled all their contractual obligations. Mr. Tabano requested a motion to accept the contract.

**Motion:** Dr. Weitzman moved to accept the contract for ASNYC for the 2016-2017 school year.

**Seconded:** Mr. Winter

**Vote:** Unanimous

##### **B. AC Interior**

AC Interior also presented a contract for custodial service. Again there were no changes in budget or scope of work. Dr. Asmussen reported that they had fulfilled all their contractual duties successfully and the school was very pleased with their work. Mr. Tabano requested a motion to renew the contract for another year.

**Motion:** Dr. Weitzman moved to approved the contract.

**Seconded:** Mr. Winter

**Vote:** Unanimous

##### **C. Aerotek Contract**

Dr. Asmussen reported that the Director of Operations would be taking a leave of absence in the coming months and that she needed to replace the individual for a short time. Therefore, she had investigated several companies who provide temporary work. Aerotek comes highly recommended, it is a day to day contract and if things work, you can hire the temporary worker permanently with no fees. While

working temporarily, Aerotek pays all employee costs including taxes and benefits. The school is asked to provide one week of paid vacation in a six month period. If any individual person does not work out, the company will replace the individual with a more appropriate candidate at no cost.

Mr. Tabano requested a motion to approve the contract with Aerotek for the purposes of hiring a replacement staff for the Director of Operations.

**Motion:** Dr. Weitzman moved to approve the Aerotek Contract  
**Seconded:** Mr. Winter  
**Vote:** Unanimous

## **VI. School Updates**

As we continue to look at formatting our Regents program formally, teachers will be instituting a “ticket to the test” system, which provides secondary accountability for parents and students. The hope is that this will help people understand how serious and important Regents tests are for successful high school completion. Mr. Tabano asked how many days were usually allowed to complete this. Ms. DiGaudio stated that assignments were staggered across the semester and we always allow students to make up work. In addition, assignments were given to be completed with fidelity, if students did not come to class or did not make up the work they may have missed, they were unable to take the test. Everyone who complete the ticket to the test is expected pass. We will review the results from the summer and then make modifications if needed for the fall semester.

Mr. Tabano asked how we are doing with hiring new people. Dr. Asmussen stated that the school hired Rudy Asher, the Internship Coordinator, as the P.E. Teacher. Mr. Asher will work towards attaining his certification in the coming year. Also our Global Studies teacher has transferred into our SPED (Spec. Ed) Department. Mr. Tabano asked if there were outstanding teaching positions open. Dr. Asmussen stated the need to fill history, two Global positions, one SPED position, and a Math position. Mr. Tabano fears that we are running out of time to acquire someone for the history department and wanted to know if we had filled them because in the past, history positions were easily filled. We have not filled them; however, we have reactivated school spring and will be searching for more. Dr. Asmussen stated that interviewing was ongoing and that if we are unable to fill these positions, we will use long-term substitutes.

## **VII. Financial**

### **A. Audit Updates**

They are coming in the August 30<sup>th</sup> and 31<sup>st</sup>. They will be completed by the 31<sup>st</sup> and will have a draft by the September meeting.

## **VIII. New Business**

**Resolution:** Vote needed on the Resolution to put Dr. Asmussen on the Board of Trustees

*The New Dawn Charter High School Board of Trustees, having conducted a thorough background check via a fingerprint scan as required and having discovered no State or federal criminal history, or having provided such history to SED if found, has voted to select Sara M. Asmussen as a final candidate to its Board of Trustees, with a term expiring on September 30, 2017, pending approval by SED. The resolution approving Sara M. ASmussenis formally adopted upon SED’s approval.*

**Motion:** Dr. Weitzman so moved.

**Seconded:** Mr. Winter  
**Vote:** Unanimous

Being no further business before the Board of Trustees, Mr. Tabano requested a motion to adjourn.

**Motion:** Mr. Winter so moved.  
**Seconded:** Mr. Ogbahan  
**Vote:** Unanimous

The meeting was adjourned at 2:03 p.m.

Next meeting is to take place on September 27, 2016 at New Dawn at 3 p.m.

Please see attachment

Memo

To: Board of Trustees, New Dawn Charter High School  
cc: Sara Asmussen, Executive Director, NDCHS  
From: Phillip Weitzman  
Re: ADP TotalSource and Professional Employers Organizations  
Date: August 16, 2016

I have been asked to document my concerns about a possible contract with ADP TotalSource or other Professional Employer Organization (PEO) to become a co-employer of NDCHS employees. I have numerous major concerns and this memo highlights only the ones that have surfaced in reviewing ADP TotalSource's slide presentations and its boilerplate Client Services Agreement .

1. It is a major step to jump from Human Resources consulting and payroll services to a situation where we become co-employer with a professional employer organization which has the legal right to hire, fire, and discipline our employees and which requires NDCHS to follow their personnel policies to the letter if we wish to receive certain benefits (see below). HR consulting and PEO's are considered different segments of the industry although they are in competition with each other. In fact, our current arrangement for HR consulting and payroll is with ADP Resource and the proposed relationship is with a different subsidiary—ADP TotalSource. We are dealing with an entirely different animal and any contract of this magnitude under Board policy requires three bids. If we are going this route we need to vet and receive bids from three firms (including ADP TotalSource) .

2. ADP TotalSource has not provided us with a specific price for its proposed relationship. Its initial presentation on May 27 to the Board stated on the first slide that the amounts quoted were only estimates based on certain assumptions. The numbers are the same, although this language disappeared, in its revised June 27 slide submission, but in any event the Client Services Agreement states specifically that there should be an attached Pricing Addendum. **We need to have a pricing sheets from each of the three firms from which we need to solicit bids.**

3. In order to be eligible to receive the benefit of attorneys fees in wrongful termination cases (costs and disbursements are not included in this benefit and could be substantial if here were a major claim) NDCHS would need to: (a) contact TotalSource before taking any adverse actions and (b) *we must follow TotalSource's recommendations as to how to proceed.*<sup>1</sup> In my view this means that we may be constrained, albeit not contractually prevented, from taking action which we as a school deem appropriate in the event of an employment claim.

4. **This Legal Defense Benefit is not insurance<sup>2</sup> and not underwritten by a third party. The benefit also ceases in the event our contract with TotalSource is terminated—even if the wrongful termination claim, discrimination complaint or other event took place during a period in which the contract was in force.**<sup>3</sup>

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<sup>1</sup>Client Services Agreement (CSA), Part 1, VIIIA.

<sup>2</sup>CSA, Part 1, VIII.

<sup>3</sup>CSA, Part 1, VIIIB.

5. **“Client understands that it may *now* (sic) need to comply with laws that may apply as a result of the PEO Relationship.”**<sup>4</sup> This is unclear, but it is my presumption that under a PEO agreement NDCHS could become responsible for additional health and safety regulations, paid family leave, layoffs, or possible Affordable Care Act provisions under which we are currently considered small employers. After we enter a PEO relationship our employees also become employees of a much larger organization--ADP TotalSource. We need to know specifically which laws these are likely to be and what costs they might entail.

6. Our biggest legal costs to date have been to deal with charges of unfair labor practices before the NLRB. **The proposed Client Services Agreement specifically states that TotalSource has no responsibilities whatsoever in the event grievances are presented to the NLRB**<sup>5</sup>; it is, however, silent as to what the responsibilities of the parties are with grievances brought to the New York PERB, although one could speculate that TotalSource would take the same position.

7. The Employment Practices Liability Insurance offered as part of the PEO package has definitions in the policy documents of wrongful employment practices that we need to examine; it also has policy limits and deductibles<sup>6</sup> which we need to understand fully.

8. NDCHS must name ADP TotalSource as an additional insured under all or most of its liability policies and these policies must be for certain minimum stipulated amounts.<sup>7</sup> We need to be certain that our insurance carriers are on board with this, and we need to know whether this would become an extra cost to NDCHS.

9. NDCHS would be obligated to present a copy of TotalSource's *Basic Employment Policies* to every employee.<sup>8</sup> We need to see a copy of this document. In addition **TotalSource reserves the right of direction and control over all NDCHS employees “as is necessary to fulfill its obligations and provide Services.”**<sup>9</sup> Furthermore, the **New York State Professional Employers Act Section 31-922(iii) states that a PEO must retain “authority to hire, terminate, and discipline worksite employees.”**<sup>10</sup>

10. Needless to say I am not comfortable with granting an outside organization ultimate rights such as these, even if they never choose to exercise these rights. I also feel that as we gain a fuller understanding of the nature of a relationship between NDCHS and a PEO we need to consult the staff, particularly the teaching faculty, as to the nature and extent of the relationship. I wonder whether being informed that they have a remote second employer might encourage staff members to feel the need to go elsewhere for additional information and protection.

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<sup>4</sup>CSA, Part 2, 1F.

<sup>5</sup>CSA, Part 2, 1G.

<sup>6</sup>CSA, Part 1, VII.

<sup>7</sup>CSA, Part 2, 3A.

<sup>8</sup>CSA, Part 1, 2E.

<sup>9</sup>CSA, Part 1, IB3.

<sup>10</sup>CSA, Part 1, IB4. This statute is also referenced in CSA, Part 3, New York.