

IN THE MATTER OF DOLORES DEMAIO
COIB CASE NO. 2012-819
SED No. 20,741
FEBRUARY 26, 2013

SUMMARY: A payroll secretary for the New York City Department of Education (“DOE”) misused City time and misused her City position for personal gain. In a joint settlement of an agency disciplinary action and a Board enforcement action, the payroll secretary admitted she falsified payroll records to receive compensation for working at times when she was not. She also admitted that she participating in the hiring of her sister for substitute teaching assignments on at least nine separate dates between December 2011 and March 2012. As a penalty for these violations of the City’s conflicts of interest law and the Chancellor’s Regulations, the payroll secretary agreed to pay a \$6,500 fine. *COIB v. DeMaio*, COIB Case No. 2012-819 (2013).

POST-CHARGE STIPULATION OF SETTLEMENT

WHEREAS, the New York City Department of Education (hereinafter the “Department”) has brought charges against DOLORES DEMAIO (hereinafter the “Respondent”), File # 654930, a tenured teacher employed by the Department and last assigned to P.S.42 located in District 31 in Staten Island, pursuant to Education Law Section 3020-a. The charges against Respondent allege that she engaged in conduct in violation of the Chancellor’s Regulations and Chapter 68 of the New York City Charter (“Chapter 68”); and

WHEREAS, the Respondent, the Department, and the New York City Conflicts of Interest Board (hereinafter the “Board”) - desire to eliminate the need to conduct a formal hearing, have held discussions where they were represented by counsel, have had all the terms and conditions of this Stipulation of Settlement (hereinafter “Stipulation”) thoroughly explained and now freely consent to enter into this Stipulation, such consent not having been induced by fraud, duress, or any other influence; and

WHEREAS, no other person not a party to this proceeding has an interest in its outcome, and no party to this proceeding is an infant or incompetent person for whom a committee has been appointed; and

WHEREAS, the parties have reached an agreement as to the complete and final resolution of this matter;

NOW IT IS HEREBY AGREED AND STIPULATED by and between said parties that this matter shall be fully resolved as follows:

1. In consideration of the agreement below, the Department and the Board shall discontinue the hearing under Education Law § 3020-a and City Charter § 2603(h) respectively upon execution of this Stipulation and take no further disciplinary action relating to the allegations described herein.
2. The Respondent admits that she has been employed by the Department since January 1, 1993, most recently as a payroll secretary at P.S.42 in Staten Island. Respondent admits that as a school payroll secretary she is a “public servant” within the meaning of Chapter 68 of the New York City Charter. Respondent admits that as the payroll secretary at P.S.42, one of her duties was to hire substitute teachers to cover the work assignments of absent P.S.42 staff members. Respondent admits that she participated in the hiring of her sister as a substitute teacher at P.S.42 by entering the arrangement into the SubCentral System on at least nine separate dates between December of 2011 and March of 2012. Respondent further admits that she is associated with her sister within the meaning of Chapter 68. Respondent further admits that, by participating in the hiring of her sister for substitute teaching assignments at P.S.42, Respondent violated Chapter 68, specifically City Charter § 2604(b)(3), which states:

No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

3. The Respondent admits that she made false entries into the Department’s business records for time/attendance and payroll, indicating that she had worked at times when she did not, in violation of the Department’s Chancellor’s Regulations and Chapter 68 of the City Charter, specifically § 2604(b)(2), pursuant to Board Rules § 1-13(a), which state respectively:

No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties. [City Charter § 2604(b)(2)]

Except as provided in subdivision (c) of this section, it shall be a violation of City Charter § 2604(b)(2) for any public servant to pursue personal and private activities during times when the public

servant is required to perform services for the City. [Board Rules § 1-13(a)]

4. The Respondent agrees to pay the Department a fine of four thousand two hundred dollars (\$4,200.00), to be deducted from Respondent's paychecks over a fifteen (15) month period. Should the Respondent leave the Department before the fine is collected in full, any remaining monies will be deducted from her final entitlement. If the final entitlement is not sufficient to cover the fine, Respondent shall remain personally liable to pay the fine.
5. The Respondent agrees to pay the Board a fine of two thousand three hundred dollars (\$2,300.00), payable via a certified bank check, no later than noon (12:00 p.m.) on February 20, 2013.
6. Respondent agrees that this Stipulation of Settlement is a public and final resolution of the Board's and Department's charges against her.
7. Respondent knowingly waives on behalf of herself and on behalf of her successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States, and to contest the lawfulness, authority, jurisdiction, or power of the Board or the Department in imposing the penalty that is embodied in this Stipulation, and Respondent waives any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Board or the Department, or any members or employees thereof relating to or arising out of this Stipulation or the matters recited therein.
8. Respondent agrees that any material misstatement of the facts of this matter, including the Stipulation, by Respondent or by Respondent's attorney or agent shall, at the discretion of the Board be deemed a waiver of the confidentiality of this matter.
9. Upon full execution of this Stipulation, Respondent shall be reassigned at the discretion of the Superintendent in accordance with the terms of the current/successor DOE/UFT

contract. Respondent understands that the Department has the right to place Respondent in the Absent Teacher Reserve pool “ATR”), until Respondent finds her own placement within the Department.

10. The Respondent understands that a copy of this Stipulation shall be kept in her personnel file, in the files maintained at the Office of Legal Services, the files maintained by District 31, and the files maintained by the Board.
11. The Respondent agrees that if she is ever brought up on Education Law Section 3020-a or Chapter 68 charges in the future and is subsequently found guilty of those charges, the hearing officer will be entitled to consider this Stipulation for the purpose of notice and for the purpose of assessing a penalty.
12. The Department and the Board, knowingly waive their rights to make any legal or equitable claims or to initiate legal and/or administrative proceedings of any kind against the Respondent, relating to or arising out of this matter, except to enforce this Stipulation now or in the future. The parties further agree to withdraw any such claims or actions that may have commenced in any forum whatsoever arising out of the facts and circumstances of the above-captioned matter.
13. The Respondent agrees that she has entered into this agreement freely, knowingly and openly, without coercion or duress and that she has voluntarily waived all statutory, contractual or constitutional rights that she may have held in this matter for a hearing in accordance with Education Law Section 3020-a.
14. The Respondent affirms that she has had access to counsel in reaching this agreement and has consulted with counsel regarding the terms of this Stipulation, and has entered into this agreement with advice and consent.
15. Nothing in this Stipulation shall be deemed to be a practice or policy of the New York City Department of Education or the Board.

16. This written agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreement, oral or otherwise, regarding said allegations and charges shall be deemed to exist or to bind any of the parties hereto or to vary any of the terms contained therein.

DATED: February 15, 2013

_____/s/
DOLORES DEMAIO
Respondent

DATED: February 15, 2013

_____/s/
RICHARD E. CASAGRANDE, NYSUT
Attorney for Respondent
52 Broadway, 9th Floor
New York, New York 10004
BY: Jennifer Hogan, Esq., of Counsel

DATED: February 15, 2013

_____/s/
LAURA HEMANS BRANTLEY, ESQ.
Acting Deputy Counsel to the Chancellor
Attorney for Complainant
NYC Department of Education
51 Chambers Street – 6th Floor
New York, N.Y. 10007
BY: Karen Antoine, Esq., of Counsel

DATED: February 15, 2013

_____/s/
Brian Sharkey, Principal
P.S.42 in Staten Island

DATED: February 26, 2013

_____/s/
Nicholas Scoppetta,
Chair
NYC Conflicts of Interest Board