

PUBLIC COMMENTS
(continued)

Mrs. Testa confirmed the Agenda is now visible via the shared screen for the public to view during the meeting. She also indicated she has received many correspondences over the last couple of days in reference to this brief, both for and against the application, and those have been shared with the BOE for their review.

Mrs. Erhard inquired of Mrs. Pollitt if there were any further questions in response to Agenda items only. Mrs. Pollitt responded there are related questions but not directly towards Amicus brief. Mrs. Erhard thanked Mrs. Pollitt and then inquired of the attorney the motion vote process. Ms. Sadowski responded that a Motion would be made to approve Agenda Item 7, and if there is a second, it would opened up to questions by the Board and a vote.

4) *Mrs. Testa interjected that there is a question posed for clarification on what the brief is and what is being voted upon.* Ms. Sadowski responded that on Monday there was a ruling in the Supreme Court of Nassau County that found the Department of Health regulation to be unlawful and that ruling was appealed by the Attorney General's office to the Appellate Division on behalf of the State requesting a stay of such ruling. She further clarified that a grant of a stay or an emergency injunction ruling would mean that the lower Court's decision would not be in effect until the Appellate Division decides the matter. Some school districts have asked to join this litigation and the Rigano law firm on behalf of those districts is filing the Amicus brief. The BOE here today will vote on whether or not North Bellmore will be included as a participant in that filing. Mrs. Erhard thanked Ms. Sadowski for her clarification.

Mrs. Testa then inquired of Mrs. Erhard if the Board has any questions in reference to this and reiterated that the Board has been forwarded correspondences both for and against this application.

5) *What information will the Board be utilizing in deciding on joining the brief?* Ms. Sadowski responded that we, the District Counsel's law firm, provided the Board a copy of the proposed brief affording the Board the opportunity to review the legal document before making its decision as to whether or not to join in this application (final brief was filed at 5 p.m. last night). The Board received this brief last night, January 27th, at approximately 9 p.m.

6) *How many districts are joining in this?* Ms. Sadowski responded approximately ten but that the number is still changing as other districts are currently holding similar meetings.

7) *Is it expensive and what is the benefit to us?* Ms. Sadowski responded that the attorney who is filing the brief is doing it on a pro bono basis meaning he is not charging the districts. As to the benefits, Ms. Sadowski indicated the brief itself does not make a stance on masking (mask or unmask). To clarify, she indicated that what is before the Appellate Division is the ruling by the Supreme Court Judge of Nassau County, Judge Rademaker, as to whether it was implemented in a lawful manner.

PUBLIC COMMENTS
(continued)

In furtherance, Ms. Sadowski did indicate that she too is scrolling the comments to ensure all questions with respect to the Agenda are addressed and there was a question posed regarding power by numbers with respect to the Court making a decision. She in response indicated the Appellate Division does not make a decision based upon the numbers, but based upon law.

Mrs. Erhard then inquired of Ms. Sadowski the benefit of adding the district or not adding the district to the brief. Ms. Sadowski shared there is no benefit either way. The Appellate Division has to review the law and any case law involved to make a decision. Ms. Sadowski did, though, state that there is a public commentary period regarding masking still open to question the proposed ruling until February 13th, and would provide that information to Mrs. Testa for those interested. Mrs. Erhard and Mrs. Testa both thanked Ms. Sadowski for that insight and will share that information with the community.

Mrs. Erhard indicated there remains about another minute left for the question and answer period. Mrs. Testa responded that there are a couple of more questions coming through anonymously. Mrs. Erhard reiterated that the name and address needs to be provided to be in compliance with the minutes of the public board meetings.

Mrs. Testa reiterated this is a special/emergency meeting of the Board which was scheduled this morning and the District provided notice to the public once the meeting was arranged. Working in conjunction with the District's attorney, the Board convened this meeting based on the brief received last night, the many correspondences reviewed, and the ultimate decision to hold the public vote on the brief. Mrs. Testa indicated minutes will be available on the website after approval next month.

8) *Are all the members available to vote?* Mrs. Testa responded that four members of the BOE are present. Mrs. Corless was not able to join due to her work schedule, and though some of us are currently at work, Mrs. Testa explained her position is not one that would allow her to participate at this time which is not a reflection of her desire to be here.

Mrs. Erhard closed the question and answer period, and offered her appreciation and gratitude on behalf of the Board to the community for their questions, e-mails, and comments received.

NOTICE OF SPECIAL MEETINGS

The Board referred to Policies 2320 and 2340, and members agreed to waive the 24-hour notice.

**APPELLATE DIVISION BRIEF
ISSUE**

AMICUS BRIEF

Motion was made by Mrs. Lanci, seconded by Mrs. Malloy, to approve the following resolution.

7. 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 subject to the final review and approval of the Board of Education, at no cost to the North Bellmore School District and/or the Board of Education of the North Bellmore 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 the President of the Board of Education to execute such retainer agreement on behalf of the Board of Education.

Motion failed with Mrs. Malloy voting in favor, Mrs. Erhard voted against, and Mrs. Lanci and Mrs. Cmar-Grote abstained.

PUBLIC COMMENTS

None.

ADJOURNMENT

On a motion by Mrs. Lanci, seconded by Mrs. Cmar-Grote, and carried 4-0, the meeting was adjourned at 11:43 a.m.

Respectfully submitted,

Laurice Gunnels
District Clerk