

6:08 p.m. – Meeting called to order

Upon discussion and deliberation the Board of Education made the following findings of fact and conclusions of law.

ADOPTED FINDINGS OF FACT

1. Mr. Anthony Bivona was hired by the Brookfield Board of Education in 2007 to serve as the Superintendent of Schools for the Brookfield School District (“District”).(Bivona: 8-8-14: 220).¹
2. Pursuant to Superintendent Bivona’s employment contract, there must be “just cause” or other “due and sufficient cause” to terminate him. (B. Ex.: 2: ¶ 6(5)).
3. Mr. Bivona possesses a (#093) certification issued by the State Board of Education to be a superintendent of schools in Connecticut. (Bivona: 8-8-14: 220).
4. Pursuant to the bylaws of the Brookfield Board of Education (“Board”), the Board is responsible for annual performance evaluations of the superintendent. (S. Ex.: 11a-c);(Bivona: 8-26-14: 13-14).
5. It is an undisputed fact that, under Bivona’s leadership, the district has enjoyed significant academic and administrative successes over the past 7 years. It is one of the premier school districts in the United States. Some of District’s successes include: **(1)** the district, and specifically the high school, is ranked as one of the top school systems in the United States; **(2)** the district has received awards from college boards for increased enrollment in advanced placement classes; **(3)** the district created an iPad initiative that provided students achievement and a technological competitive advantage; **(4)** the district instituted a world language program in K-12, further advancing the students academic profile ; **(5)** Bivona has created an atmosphere of learning that has provided all students in Brookfield an academic advantage in an increasing competitive scholastic market.(Bivona: 8-8-14: 225);(Bivona: 8-26-14:19).
6. In the aftermath of the tragic events in Newtown, Superintendent displayed outstanding leadership throughout the district by ensuring the safety of students and staff in the district by rapidly implementing a security plan for the district and communicating to a traumatized community that their children were safe. (Bivona: 8-26-14:20).
7. The Board—through its previous Chairman, Ray DiStephan—lauded Bivona in 2011, as being “highly efficient, transparent, and exceeding expectations.”(S. Ex. 14).

¹References to the record and exhibits contained in the record are referenced herein as: Superintendent’s Exhibit (“S. Ex.: [#]”); BOE Exhibits (B. Ex. [#]); Testimony of witnesses ([last name of witness] date of testimony and corresponding transcript page #).

8. A superintendent of schools has myriad responsibilities that are extensive and complex. In fact, those duties are too numerous to list. See Bivona: 8-8-14: 222-231; Cirasuolo: 9-30-14: 8-10) (B. Ex. B.3) One of those responsibilities is overseeing the finances of the district. (Bivona: 8-8-14: 222-231).

9. The business manager of the school district holds a special position certified by the State Board of Education (Cert. #085). (Connecticut State Regulations §10145d-589). Business managers must have specialized training and expertise in business operations to become certified to manage a district's finances. (Id.) (Cirasuolo: 9-30-14: 23).

10. The qualifications needed to obtain a superintendent certification (#093) would not suffice to obtain a certification for a business manager certification (#085). The two certifications are different with the #085 certification requiring expertise in business. (Cirasuolo: 9-30-14: 23); (Bivona: 8-8-14: 212-214; 219; 229-230) see also Connecticut State Regulations §10145d-582-585; 589).

11. The reason that school districts require business managers is because it would be impossible for a superintendent to maintain and perform all the responsibilities of running a school district and to serve simultaneously as the business manager. As Dr. Cirasuolo testified, superintendents do not have the luxury of performing both roles. (Cirasuolo: 9-30-14: 23-24). In order for a superintendent to perform his responsibilities effectively, he must not only delegate to, but also trust, his business manager—who is a business professional certified by the state. (Cirasuolo: 9-30-14: 10-13; 15-16; 23-24); (Colley: 8-8-14: 115); (Bivona: 8-26-14: 23-24, 32, 49, 115).

12. On or about July 1, 2008, the Board hired Mr. Art Colley to be its business manager. (Colley: 8-8-14: 9).

13. Once the Town of Brookfield appropriates the district's budget, it is the responsibility of the business manager to conduct the day-to-day managing of the budget, while the superintendent oversees the process as CEO. The Board providing oversight of the superintendent. (Colley: 8-8-14: 16) (Bivona: 8-26-14: 30-32).

14. For a superintendent of schools to run a school district successfully—given the enormity of his or her responsibilities—it is essential that he or she place considerable trust in the business manager. (Cirasuolo: 9-30-14: 13).

15. In Brookfield, the superintendent and the Board of Education have the responsibilities regarding the monitoring and overseeing the budget through: (1) review by the superintendent of the business managers' monthly performance reports; (2) further review by the Board's Business and Facilities sub-committee; (3) full BOE review of the monthly budget; and (4) end-of-the-year review of budget performance reports. (Colley: 8-8-14: 26-28, 37); (Bivona: 8-26-14: 25, 33-39).

16. Superintendent Bivona reviewed and analyzed each month's budget performance reports created by Mr. Colley for any financial abnormalities or irregularities.

(Bivona: 8-26-14: 42). However, as Dr. Cirsuolo testified, it would be impossible and unreasonable for a superintendent to go through each line item every month and recalculate the data relating to the overall budget. The superintendent has too many other responsibilities. (Cirsuolo: 9-30-14: 23-24).

17. The Board's Business and Facilities Subcommittee ("BFS") also reviewed and analyzed each month's budget performance reports created by Colley. If there were no abnormalities or irregularities identified, the BFS recommended the monthly budget to full Board for approval. (Colley: 8-8-14: 26-28); (Bivona: 8-26-14: 35-39); (Checco 9-30-14: 47).

18. The Brookfield School District has a comprehensive system of checks and balances intended to make sure that its budget is balanced and to catch any financial abnormalities or inconsistencies. That system includes: (1) oversight of the budget by the superintendent; (2) a business manager, who is responsible for the day-to-day operation of the budget, balancing and accounting of the budget, and promulgating monthly business reports; (3) oversight by the Business and Facilities Sub-Committee, whose members review all monthly reports; (4) oversight provided by the full Board, whose members review of the monthly budget reports; (5) annual independent audits of the district's budget by certified public accountants who have access to all the same books and data that Bivona and the Board had access to.

19. The district's budget was analyzed by independent certified accountants every year from 2008 until the present. None of the independent audits from 2008 to 2012 revealed any financial irregularities. In fact, quite the opposite was true, the district's books and budgets consistently received clean, unqualified audits. (Bivona: 8-26-14: 23, 49 55, 96, 177); (Colley: 8-8-14: 39, 41, 47, 184).

20. Dr. Cirsuolo testified definitively, that the information (regarding clean unqualified audits of the district's finances) would lead a reasonably prudent superintendent of schools to believe that a modified accrual basis of accounting was being used by the business manager. (Cirsuolo: 9-30-14: 15).

21. In 2013, however, the accounting firm of Mahoney / Sabol discovered that the Board's business manager, Art Colley, had been paying invoices from one fiscal year in the subsequent fiscal year. (Colley: 8-8-14: 33); (Bivona: 8-26-14; 53). Colley's accounting practice was not in line with the modified accrual system of accounting.

22. In October 2013, Colley informed Bivona verbally that he had been using an incorrect accounting practice. (Bivona: 8-26-14: 53).

23. Dr. Cirsuolo testified that Superintendent Bivona's response to the fiscal crisis was "more than appropriate" and the actions of a reasonably prudent superintendent of schools. (Cirsuolo: 9-30-14: 38-39).

24. After Colley resigned, Superintendent Bivona recruited in an interim business manager, Edward Arum.

25. On or about May 15, 2014, the Board placed him on administrative leave. (Bivona: 8-26-14: 69)(B. Ex. 1(c)).

26. On or about May 29, 2014, the Board, through its counsel, provided Bivona with a letter that allegedly contained the reasons for termination of his contract.

27. Bivona ordered a budget freeze in March 2012 when the health insurance line item was projected to exceed the amount previously projected. (Colley: 8-8-14: 71)(Bivona: 8-26-14: 82).

28. Ordering a freeze was the reasonably prudent thing. (Cirasuolo: 9-30-14: 37-39);(Bivona 8-26-14: 81). Bivona would frequently order “freezes” to manage a volatile line item. (Bivona: 8-26-14 22-23) A reasonably prudent superintendent of schools would have followed the exact same procedure. (Cirasuolo: 9-30-14: 30-37).

29. Dr. Cirasuolo testified further: “I must say for whatever it’s worth, this is my seventh year as the executive director [of CAPSS]. It’s the first time I’ve felt compelled to come and testify on behalf of a [superintendent] member. . .” (Emphasis added.) (Cirasuolo: 9-30-14: 26-27). When asked directly whether he believed it would reasonable to terminate Superintendent Bivona’s contract under the present facts, Dr. Cirasuolo stated: “No. I don’t think so.”

30. The Brookfield Board of Education (hereinafter, the “Board”) and Anthony Joseph Bivona (hereinafter, the “Superintendent”) entered into an employment agreement on July 1, 2013 (Board Exhibit 2).

31. The employment agreement referenced above incorporates the duties and responsibilities set forth in the Brookfield Public Schools’ job description for the position of Superintendent of Schools. See Board Exhibit 2, ¶ 1 and Board Exhibit 3. The Superintendent has been continuously employed by the Board since July 30, 2007. Board Exhibit 5.

32. Prior to being hired as the Superintendent of Schools in Brookfield, the Superintendent had been employed as the Superintendent of Schools for Regional School District No. 6 from January 2005 and has previously held the position of Director of Pupil Services for the Old Saybrook Public School System from 1995 to 2004, was Supervisor of Special Education for the Plainville Public Schools from 1989 through December 1995 and was employed as a school psychologist for the Simsbury Public Schools from 1982 through 1989. Board Exhibit 6.

33. The Superintendent possesses the following certifications: Superintendent of Schools (093); Intermediate Administrator and Supervisor (092); and School Psychologist (070). Board Exhibit 6.

34. The current contract between the Superintendent and the Brookfield Board of Education expires on June 30, 2016 unless it is terminated before that date. Board Exhibit 2.

35. At a Board meeting on May 14, 2014, pursuant to the termination provision contained in the contract between the Board and the Superintendent, the Board voted unanimously to authorize the chairman of the Board to give written notice to Superintendent Bivona that termination of his contract is under consideration and that he be put on administrative leave effective May 15, 2014. See Board Exhibits 1A – 1D.

36. On May 19, 2014, the Superintendent’s attorney submitted a written request for a statement of the charges against his client and that he be provided with a hearing in public. See Board Exhibit 1E and 1F. On May 29, 2014, the School District’s attorney, William Connon, provided the Superintendent’s attorney with a “Statement of Written Charges” as requested. Board Exhibit 1G.

37. That May 29, 2014 Statement of Written Charges provided as follows:

One or more of the following constitute “Other due and sufficient cause”:

1. Failure to fulfill the Duties of Superintendent as set forth in Article 1 of his contract of employment, and referenced job description, more particularly:

(a) “Supervision Exercised: The Superintendent is responsible for all administrative and supervisory personnel of the district and directly, or indirectly, every district employee;” and/or

(b) “Fiscal Management”

(1) Maintains adequate records for the schools, including a system of financial accounts

(2) Monitors the administration of the budget as enacted by the Board and through monthly financial statements or special bulletins on budget variances keeps the Board informed of the financial status of the schools.

(3) Prepares the annual budget based on the school district’s goals and needs and submits it with supporting documentation.

...

(5) Supervises the maintaining of records and ensures that all State, and Federal reports and audits are in compliance.”

...

2. Failure to abide by Board Policy 3400 which provides as follows:

The Superintendent shall be responsible for receiving, and properly accounting for, all funds of the District.

The modified accrual accounting system used shall conform with the requirements of the State Department of Education and, with good accounting practices, provide for the appropriate separation of accounts, funds and special monies.

3. Failure to assure compliance with other Board policies relating to the District's fiscal management, including Board Policy 3010, item No. 4: "To operate the school system so that expenditures do not exceed budget approved by the community"; Board Policy 3170 concerning "Fiscal Business" which provides, in pertinent part: "The Superintendent has the responsibility for administering the operating budget and assuring that: (1) All expenditures of funds and purchases meet the legal requirements of the State Board of Education and Connecticut Legislature and Board policies."
4. Failure to abide by Connecticut General Statute Section 7-348, entitled "Towns Not To Contract In Excess of Appropriations. Town Meeting To Increase Amount" in connection with fiscal years 2011-12, and 2012-13 and, possibly, 2013-14.
5. Through malfeasance and/or misfeasance causing the members of the Brookfield Board of Education to be exposed to penalties set forth in Connecticut General Statute Section 7-349 in connection with over expenditures in fiscal years 2011-12, 2012-13 and possibly 2013-14.
6. Failure to comply with Brookfield Town Charter provision C8-5 setting forth the procedure for seeking a supplemental appropriation and C8-7,E regarding making payments in violation of the provisions of the Charter.
7. Failing to adequately plan and oversee the District's finances during fiscal year 2013-14 to realize that approximately \$200,000 in anticipated revenue during fiscal year 2013-14 was in jeopardy of not being received, so that the District could act in a businesslike manner to seek a supplemental appropriation, stop discretionary purchases, lay off staff, or otherwise take steps to enable the Board to avoid over expending its budget. At the time of this letter, the outcome is not known.
8. Failure to lead the District as its Chief Executive Officer in such a way as to reasonably assure the Brookfield Board of Education that it can rely upon his judgment and skills to oversee the finances of the District in an acceptable and lawful manner during the remaining term of his contract of employment.

38. The Board Policy 3400 referenced in Charge No. 2 was introduced at the hearing and marked as Board Exhibit 7R.

39. Board Policy 3010 referred to in Charge No. 3 was introduced during the hearing and marked as Board Exhibit 7B. Board Policy 3170 also referred to in Charge No. 3 was introduced during the hearing and marked as Board Exhibit 7N.

40. With respect to Charge No. 4, Connecticut General Statutes Section 7-348, entitled "Towns not to contract in excess of appropriations. Town meeting to increase amount" provides in its entirety as follows:

No officer of such town shall expend or enter into any contract by which the town shall become liable for any sum which, with any contract then in force, shall exceed the appropriation for the department, except in cases of necessity connected with the repair of highways, bridges, sidewalks and water and sewer systems and the care of the town poor, and then not more than one thousand dollars. If any occasion arises whereby more money is needed for any department of the town than has been appropriated as provided for in this chapter, the selectmen shall notify the board of finance of such fact, and the chairman of such board shall forthwith call a meeting thereof to consider the appropriation for such department and the board may make the necessary appropriation therefor, after inquiry, but, if, in towns where the grand list is not more than twenty million dollars, the amount required or the amount required, together with the sum of any additional appropriations made by the board for such department within the same fiscal year, exceeds ten thousand dollars, or, in towns where the grand list exceeds twenty million dollars, if the amount required or the amount required, together with the sum of any such additional appropriations, exceeds twenty thousand dollars, such appropriation shall not be made until, upon the recommendation of the board, the same has been voted by the town at a meeting called for such purpose, provided no more than one such additional appropriation for any one department shall be made in one year without town meeting approval, and provided the board may make additional appropriations for the care of town poor without town meeting approval not exceeding, in the aggregate, two thousand dollars in towns where the grand list does not exceed twenty million dollars or four thousand dollars in towns where the grand list exceeds twenty million dollars. The board may call a public hearing prior to the town meeting at which parties in interest and citizens shall have an opportunity to be heard so that the board may obtain information to assist in making its recommendations. The amount required for such appropriation may be drawn either from any cash surplus available or from any contingent fund established as hereinafter provided. If no cash surplus exists and no funds are available in the contingent fund, such appropriation may be financed by borrowing,

and the amount of such borrowing shall be included in and made a part of the next tax levied. The estimate of expenditures submitted by the board of finance to the annual town meeting or annual budget meeting may include a recommended appropriation for a contingent fund in an amount not to exceed three per cent of the total estimated expenditures for the current fiscal year. No expenditure or transfer shall be made from the contingent fund until such expenditure or transfer has been approved by the board of finance. The provisions of this chapter shall not be a limitation upon the town in issuing bonds under the provisions of law or expending the proceeds thereof in accordance with the vote of such town nor shall such provisions be a limitation upon the settlement of claims or judgments against the town under the provisions of law.

41. Connecticut General Statutes Section 7-349 sets forth the penalty for any officer who violates, among other things, Connecticut General Statutes Section 7-348. That statute provides in its entirety as follows:

Any officer who, in violation of any provision of this Chapter, expends or causes to be expended any money of such town, except for the purpose of paying judgments rendered against such town, shall be liable in a civil action in the name of such town and the amount so drawn from the treasury of such town shall be liquidated damages in such action against any such officer.

42. Charge No. 6 refers to the Brookfield Town Charter provision C8-5 and C8-7,E. The Brookfield Town Charter was introduced as an exhibit at the hearing and marked as Board Exhibit 8.

43. The State of Connecticut under Section 7-392 of the General Statutes requires all municipalities to conduct an annual audit of their financial statements. The objective of such audits is to provide reasonable (rather than absolute) assurance that the town's financial statements are free of any material misstatements. On January 22, 2014, the Town of Brookfield issued its comprehensive annual financial report for the year ended June 30, 2013. That report provides, in pertinent part as follows:

The audit of the fiscal year ending June 30, 2013 revealed \$1,175,520 in unauthorized overspending by Board of Education budgets (\$703,899 in the year ended June 30, 2012 and \$471,621 in the year ended June 30, 2013). The effect of the overspending is material noncompliance with Section 7-348 of the State of Connecticut General Statutes and the Brookfield Town Charter

See Board Exhibit 10, page I.

44. In accordance with generally accepted accounting standards, the Town's auditors, Mahoney Sabol & Company, LLP, advised the Town of a material noncompliance

discovered during the audit of the fiscal year which ended on June 30, 2013. In particular, in Finding No. 2013-3 on page 11 of its report (see Board Exhibit 11), the auditors stated as follows:

Criteria

Section 7-348 and 10-222 of the State of Connecticut General Statutes and the Brookfield Town Charter requires approval from the Board of Finance and/or the citizens of the town prior to incurring expenditures in excess of the amount appropriated by the town for any given fiscal year.

Condition

During our audit, we identified a material restatement of the town's prior year financial statements relating to fiscal year 2012 educational expenses totaling \$704,792 that were improperly expensed during the fiscal year of 2013. A restatement of this amount to fiscal year 2012 would have resulted in an overspending of the Board of Education's fiscal year 2012 budget in the amount of \$36,150,000 by \$703,899 or 1.9%. This overspending assumes no additional restatements to the fiscal year 2012 amounts previously reported. In addition, during our audit, we noted that the Board of Education overspent its fiscal year 2013 budget by \$471,621.

...

Effect

The effect of the overspending is a material noncompliance with Section 7-348 of the State of Connecticut General Statutes and the Brookfield Town Charter resulting in an unauthorized use of the town's unassigned fund balance.

Cause

The material noncompliance appears to be due to the Board of Education's Business Office operating under past practice that any excess costs over budget pertaining to the prior fiscal year could be paid from the subsequent fiscal year appropriation. As such, the need for an additional appropriation was never considered by the Business Office.

45. After the 2012-13 audit report was issued, the former Director of Finance, Technology and Operations, Art Colley, submitted a report which included a section entitled "Causal Factors" that explained how the over expenditure occurred. Board Exhibit 14. In the first paragraph of that section of his report, Mr. Colley states in pertinent part as follows:

In analyzing financial activity back to 2006-07 invoices totaling between \$100,000 and \$260,000 have been “pushed” forward into the next year once the Board of Education operating budget has been exhausted.

Mr. Colley confirmed this was true when he appeared and testified under oath. Transcript Vol. 3, pp. 129-131.

46. Art Colley became the Director of Finance, Technology and Operations on July 1, 2008. Transcript Vol. 3, p. 9. From October 23, 2006 through June 30, 2008, Mr. Colley had been the Director of Technology and Operations.

47. Prior to July 1, 2008, the Brookfield School District had two separate positions: Director of Finance and a second position, Director of Technology and Operations. In 2007-2008, Mr. Colley was the Director of Technology and Operations and the Director of Finance was Mr. Craig McLain. Transcript Vol. 3, pp. 117-118. The two positions were merged as of July 1, 2008. Id.

48. Within a few months of starting work on July 30, 2007, the Superintendent realized that the Business Manager, Mr. McLain, had improperly accounted for Special Education costs. Transcript Vol. 4, p. 117 and Board Exhibit 5.

49. As early as August or September of 2007, the Superintendent realized that the District would exceed its 2007-08 budget by approximately \$400,000. Transcript Vol. 4, p. 133.

50. The Superintendent discovered the estimated \$400,000 shortfall by going through financial reports. Transcript Vol. 4, p. 133. During the 2007-08 fiscal year, Mr. Bivona informed the Town’s Board of Finance of the anticipated \$400,000 shortfall for the purpose of informing them that possibly at the end of the year, the Board of Education would be coming back for a special appropriation. Transcript Vol. 4, pp. 133-134.

51. The Superintendent never recommended to the Board of Education, the Board of Selectmen, or the Board of Finance that there be a supplemental appropriation to the Board of Education’s budget before the end of the 2007-08 fiscal year. In the entire time that the Superintendent has been employed as superintendent of the Brookfield school system, he has never, pursuant to Town Charter or statute, recommended or requested a supplemental appropriation to the Board of Education’s budget. Transcript Vol. 4, pp. 139-140.

52. The Superintendent did not trust Business Manager McLain because, among other reasons, the Superintendent did not find him to be particularly honest with questions he had asked him which he later discovered were not true which he told the Superintendent were true. Transcript Vol. 4, p. 120.

53. The Superintendent informed Mr. McLain that it was his intention not to recommend that he return after his contract expired on June 30, 2008. Transcript Vol. 4, p. 121.

54. Despite distrusting the Business Manager, counseling him out of the system, estimating a \$400,000 shortfall, and yet never going back for a supplemental appropriation, the Superintendent did nothing following the 2007-08 fiscal year different than what he normally did to determine whether the Board had exceeded its budget. Transcript Vol. 4, pp. 141-142.

55. Mr. Colley found out that there had been a past practice of pushing invoices from one fiscal year into the next during the first thirty days that he was Director of Finance. Transcript Vol. 4, pp. 143-144.

56. If no one told Superintendent Bivona about the pushing forward practice, he could still have discovered it himself if he had simply looked at the invoices from June of 2008 and compared them to the check register to determine which budget they were paid from. Transcript Vol. 4, pp. 145-146. The same is true for subsequent fiscal years.

57. From the time the Superintendent began work in Brookfield in July 2007, through June 30, 2013, the Brookfield school district overspent its budget every single fiscal year by at least \$100,000. Board Exhibit 14; Transcript Vol. 3, pp. 130-131.

58. Between July 2008 and December 2013, the Superintendent's office was located next to the office of Art Colley, the Director of Finance, Technology and Operations, and in the same central office where Mr. Colley learned, during July of 2008, from two finance department clerical employees, of the practice of pushing forward bills from one fiscal year into the next fiscal year.

59. Mr. Bivona either knew, or if he had exercised reasonable diligence, should have known, that the Board of Education exceeded its budget appropriation in some or all of the fiscal years between 2007-08 and 2012-13.

60. Despite the size of the budget being in the range of \$35-\$37 million, in each of the years between 2007-08 and 2012-13, all of the appropriated money was spent down to a couple of thousand dollars or less, and in one instance, \$850. Transcript Vol. 4, p. 149.

61. A reasonably diligent superintendent of schools should have realized that it was virtually impossible to fully expend a budget of that size, over the course of a fiscal year, and be regularly left with such a minute margin of error. A reasonably diligent superintendent of schools would have suspected accounting irregularities, including the possibility of over expenditure of the budget appropriation in each of those fiscal years.

62. The level of trust the Superintendent placed in Business Manager Colley's judgment and financial skills was unwarranted, given the fact that Mr. Colley never previously held an equivalent position to that of Director of Finance, did not become certified as a Business Manager until 2008 and took on the duties of a Director of Finance in addition to all responsibilities he previously had as a Director of Technology and Operations, when he began work in July of 2008.

63. As a direct result of the Superintendent's failure to properly oversee and take responsibility for the finances of the Brookfield School District, the Town of Brookfield had

to ratify previously unauthorized expenditures, identified in the Town's audit for the fiscal year ending June 30, 2013, and authorize an appropriation of \$1,175,520 to fund the costs of said expenditures, financed from the Town's general fund balance. Board Exhibit 13.

ADOPTED CONCLUSIONS OF LAW

1. The phrase "due and sufficient cause" has often been interpreted by Connecticut courts. In the context of teacher termination proceedings held in accordance with Conn. Gen. Stat. § 10-151, Connecticut's Teacher Tenure Act, the Connecticut Supreme Court has held as a threshold matter that "[t]he jurisdiction and discretion to determine what may be due and sufficient cause rests in the hands of the school authorities." Hanes v. Bridgeport Board of Education, 65 Conn.App. 224, 232 (2001). In exercising this discretion, "the decision to terminate must be reached after a careful examination of all pertinent factors relating to the particular situation, with due consideration of the effect of the teacher's conduct will have on the school authorities as well on students ...". Tucker v. Norfolk Board of Education, 177 Conn. 572, 580 (1979).

2. "Due and sufficient cause" should be interpreted as the equivalent of "good cause." See id. at 577; citing Rinaldo v. School Committee of Revere, 294 Mass. 167, 169, 1 N.E.2d 37 (1937). To this end, "[g]ood cause includes any ground which is put forward by the [school] committee in good faith and which is not arbitrary, irrational, unreasonable, or irrelevant to the committee's task of building up and maintaining an efficient school system." Rado v. Bd. of Educ. of Borough of Naugatuck, 216 Conn. 541, 554 (1990). Furthermore, "in deciding whether particular conduct constitutes 'due and sufficient' cause for termination, the impact of that conduct upon the operation of the school is a significant consideration. Id.

3. The Superintendent failed to fulfill the duties of a superintendent as set forth in Article I of his contract of employment, and referenced job description, as provided in Charge No. 1 of the Statement of Written Charges.

4. The Superintendent failed to abide by Board Policy 3400 as provided in Charge No. 2 of the Statement of Written Charges.

5. The Superintendent failed to ensure compliance with other Board policies relating to the District's fiscal management, including Board Policy 3010, item No. 4 and Board Policy 3170, as provided in Charge No. 3 of the Statement of Written Charges.

6. Based upon un rebutted evidence submitted during the hearing, the Superintendent failed to abide by Connecticut General Statutes Section 7-348 in connection with fiscal years 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, and 2012-2013.

7. Through malfeasance and/or misfeasance, the Superintendent caused the members of the Brookfield Board of Education to be exposed to penalties set forth in Connecticut General Statutes Section 7-349 in connection with over expenditures set forth in each of the fiscal years mentioned above in paragraph 6.

8. The Superintendent failed to comply with the Brookfield Town Charter provision C8-5 and C8-7, E as provided in Charge No. 6 of the Statement of Written Charges, for each of the fiscal years set forth above in paragraph 6.

9. The Board lacks a final audited financial statement for the fiscal year 2013-14, and for that reason, declines to reach any conclusion concerning any of the Statement of Written Charges that may pertain to that fiscal year. Should, at some later time, the Board need to make findings of fact and conclusions of law concerning that fiscal year, it reserves the right to do so.

10. The Superintendent of Schools, Anthony Joseph Bivona, has failed to lead the Brookfield School District as its Chief Executive Officer in such a way as to reasonably assure the Brookfield Board of Education that it can rely upon his judgment and skills to oversee the finances of the District in an acceptable and lawful manner during the remaining term of his contract of employment.

Based upon all of the foregoing Findings of Fact and Conclusions of Law, it is hereby moved that Mr. Bivona's contract of employment with the Brookfield Board of Education be terminated, effective immediately.

9:42 p.m

S. Harding - motion to terminate Anthony Bivona's contract immediately

H. Shaker - second

6-0

9:43 p.m

S. Harding - motion to adjourn

T. Lerner - second