

RESOLUTION

The Board of Education of the Mount Vernon City School District, Knox County, Ohio (hereinafter the "Board") met in regular session on January 10, 2011, with the following members present:

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\_\_\_\_\_ moved and \_\_\_\_\_ seconded the adoption of the following resolution:

**RESOLUTION TO TERMINATE ANY AND ALL EMPLOYMENT CONTRACTS  
OF JOHN FRESHWATER WITH THE BOARD OF EDUCATION  
EFFECTIVE 11:59 P.M. ON JANUARY 10, 2011**

WHEREAS, John Freshwater ("Mr. Freshwater") is currently employed by the Board as an eighth grade science teacher as Mount Vernon Middle School;

WHEREAS, as a result of his position with the Board, Mr. Freshwater is a member of the bargaining unit represented by the Mount Vernon Education Association ("MVEA") and is governed by the terms and conditions of employment set forth in the collective bargaining agreement between MVEA and the Board (the "Agreement");

WHEREAS, the Board has promulgated reasonable policies, rules and standards for the management and control of its workforce and for the safe and efficient governance of its employees, in compliance with State and Federal law;

WHEREAS, the Board not only expects, but requires, its employees to adhere to the reasonable policies, rules and standards promulgated by the Board, as well as State and Federal law;

WHEREAS, Mr. Freshwater is an employee and charged with and compensated for not only his performance while at work but also for his knowledge of and adherence to the aforementioned Board policies, rules and standards, as well as State and Federal law;

WHEREAS, Ohio Revised Code §3319.16 sets forth that a teacher employed by the Board of Education may be terminated for "good and just cause;"

WHEREAS, under the Agreement and the statutory law of Ohio, Mr. Freshwater is subject to R.C. §3319.16 and may be terminated for "good and just cause;"

WHEREAS, under Section 3319.16, Mr. Freshwater was provided notice, signed by the Treasurer, of the Board's intention to consider the termination of his teaching contract(s);

WHEREAS, Mr. Freshwater filed a written statement with the Treasurer on June 30, 2008, requesting a public hearing before the Board;

WHEREAS, the Board requested that a Referee preside over the hearing, as appointed by the State of Ohio Superintendent of Public Instruction, pursuant to Section 3319.16 of the Revised Code;

WHEREAS, a Referee conducted a public hearing, commencing October 2, 2008 and extending through June 22, 2010, with testimony and evidence offered by Mr. Freshwater and the Board;

WHEREAS, the Referee issued a Report on Friday, January 7, 2011, recommending "the Board of Education of the Mount Vernon City School District ... terminate John Freshwater's contract(s) for "good and just cause;"

WHEREAS the Board adopts the Referee's Report, finding the following conduct as "good and just cause" under Revised Code Section 3319.16 for the termination of Mr. Freshwater's teaching contract(s):

- Mr. Freshwater injected his personal religious beliefs into his plan and pattern of instructing his students. In doing so, he exceeded the bounds of all the pertinent Bylaws/Policies of the Mount Vernon City School District;
  - In 2003, Mr. Freshwater unsuccessfully petitioned the Board to allow him "to critically examine the evidence both for and against evolution." Despite the Board's rejection of this proposal, Mr. Freshwater undertook the instruction of his eighth grade science students, as if the suggested policy had been implemented;
  - On more than one occasion, Mr. Freshwater was reminded by his superiors that he must abide by the Bylaws & Policies, as they related to religion in the curriculum;
  - Mr. Freshwater's "evidence" against evolution was based, in large part, upon the Christian religious principals of Creationism and Intelligent Design;
  - Mr. Freshwater's use of "against evolution" materials ran afoul of the District's Bylaws/Policies;
  - Mr. Freshwater used unauthorized handouts to challenge evolution, based in large part upon the Christian religious principals of Creationism and Intelligent Design;
  - Mr. Freshwater used motion pictures (Expelled; No Intelligence Allowed) and videos (the Watchmaker) to challenge evolution, which were based in large part upon the Christian religious principals of Creationism and Intelligent Design;
  - Mr. Freshwater taught his students to use the code word "here" when teaching students to question printed materials from science textbooks, which were approved and provided by the Board;



- Mr. Freshwater taught his eighth grade students that homosexuality is a sin, so anyone who chooses to be a homosexual is a sinner. Mr. Freshwater also taught his students that science and scientists can be wrong when they declare that there is a genetic predisposition to homosexuality;
- Mr. Freshwater not only injected his subjective, biased, Christian religion based, non-scientific opinion into the instruction of eighth grade science students but also gave those students reason to doubt the accuracy and or veracity of scientists, science textbooks, and/or science in general;
- Mr. Freshwater acted in defiance of direct instructions and orders of the administrators (Insubordination);
  - Mr. Freshwater was directed to remove or discontinue the display of all religious articles in his classroom, including all posters of a religious nature, and whereas, Mr. Freshwater has failed to comply with that directive and, further, has brought additional religious articles into his classroom, in a direct act of insubordination;

WHEREAS, the Referee's Report has determined that the multiple incidents described above, in total, represent a sufficient bases/grounds for termination; the Board further determines that each individual action independently constitutes "good and just cause" for the termination of Mr. Freshwater's teaching contract(s), whether considered individually or jointly;

NOW THEREFORE BE IT RESOLVED, that the Board terminates any and all employment contracts of Mr. Freshwater with the Mount Vernon City School District Board of Education. The Treasurer shall furnish Mr. Freshwater with written notice, denoting the Board's termination of his employment contract "for other good and just cause," in accordance with Ohio Revised Code §3319.16 and the collective bargaining agreement.

BE IT FURTHER RESOLVED, that Mr. Freshwater's termination shall take effect at 11:59 p.m. on January 10, 2011.

BE IT FURTHER RESOLVED, that it is hereby found and determined that all formal actions of the Board of Education concerning and relating to the adoption of this Resolution were adopted in an open meeting of the Board, and that all deliberations of the Board and any of its committees that resulted in such formal action were open to the public when required by law, in full compliance with the law.

UPON ROLL CALL AND THE PASSAGE OF THE FOREGOING RESOLUTION, the vote was as follows:

	<u>Yea</u>	<u>Nay</u>
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_____	_____	_____
_____	_____	_____
_____	_____	_____

The foregoing is a true and correct excerpt from the minutes of a meeting of the Board of Education of the Mount Vernon City School District conducted on January 10, 2011.

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Treasurer