



TO: Cultural Education Committee

FROM: Alison B. Bianchi 

SUBJECT: Philip Warner vs. Gary Flaherty, in his official capacity as president, and Tammy Flaherty, in her official capacity as curator, of the Canaan Historical Society.

DATE: December 5, 2017

AUTHORIZATION(S): 

SUMMARY

Issue for Decision

Should the Cultural Education Committee recommend that the Board of Regents hold a hearing pursuant to Education Law §226(4) on the application of Philip Warner to remove Gary and Tammy Flaherty from their official positions within the Canaan Historical Society and order the transfer of certain artifacts to another cultural entity?

Reason(s) for Consideration

Required by State statute (Education Law §226[4]) and Regents Rules (8 NYCRR §3.31).

Proposed Handling

The question will come before the Cultural Education Committee for recommendation and to the Full Board for action at the December 2017 Board of Regents meeting.

Background Information

The Canaan Historical Society ("CHS"), located in the Town of Canaan and the County of Columbia, received its provisional charter from the New York State Board of Regents on May 24, 1963 and its absolute charter on September 24, 1971. The purposes for which this education corporation were formed included: a) To stimulate a keener interest in the Town of Canaan and appreciation of its heritage, its history and its

geography; b) To provide a common meeting ground for those who are interested and willing to explore the past of the Town of Canaan; c) To assemble and display appropriate mementos, tools, furniture and documents of Canaan's early days; and d) To maintain at one or more locations in the Town of Canaan a building or museum for the housing of such items as shall be deemed to be of interest in connection with the history of the Town of Canaan.

Petitioner, Phillip Warner, has served on respondents Gary and Tammy Flaherty and filed with the State Education Department's Office of Counsel a petition for the removal of respondent Gary Flaherty, as president of CHS, and respondent Tammy Flaherty, as curator of CHS. Petitioner seeks respondents' removal based on allegations of "misconduct, for not preserving and properly protecting [Captain William] Warner artifacts." Petitioner, a descendant of Captain Warner, requests that, in addition to the removals, "Capt. Warner's artifacts be returned to the Warner Family" for disposition to another institution named in the petition. Petitioner further requests that the "Warner artifacts be professionally protected and preserved...." Respondents have submitted an answer in which they deny all allegations and request that the Board of Regents dismiss the petition.

Related Regents Items

N/A

Recommendation

It is recommended that, pursuant to §3.31(t) of the Rules of the Board of Regents, following consultation with Counsel in Executive Session at the December 2017 Regents meeting, the Cultural Education Committee recommend one of the following actions to the Full Board of Regents with respect to this matter:

Resolution A:

VOTED: That the Board of Regents determine that a hearing in this matter is not required and dismiss the petition in its entirety, pursuant to §3.31(t) of the Rules of the Board of Regents. Petitioner has sought relief not available under Education Law §226(4), and petitioner has alleged facts which, even if proven true, would not warrant removal under Education Law §226(4).

Resolution B:

VOTED: That the Board of Regents determine that a hearing in this matter is required, and that the Board of Regents shall convene a hearing panel, pursuant to Education Law §226 and §3.31(u) of the Rules of the Board of Regents.

Timetable for Implementation

If the Board of Regents adopts “Resolution A,” no hearing will take place and the petition will be dismissed. This decision of the Board of Regents shall be in writing and shall constitute the final determination of the Board of Regents.

If the Board of Regents adopts “Resolution B,” the Department will schedule a hearing in this matter in accordance with § 3.31(u) of the Rules of the Board of Regents.