



TO: Cultural Education Committee
FROM: Daniel Morton-Bentley 
SUBJECT: New York State Board of Regents v. Oscar Davis, et al.
[as Trustees of the Mount Vernon Public Library]
DATE: September 22, 2022

AUTHORIZATION(S): 
SUMMARY

Issue for Decision

Should the Board of Regents hold a hearing, pursuant to Education Law § 226 (4) and § 3.31 of the Rules of the Board of Regents, for the removal of Oscar Davis Jr., Cathlin Gleason-Boncardo, Hope Marable, Vivien Salmon, and Judy Williams-Davis, as Trustees of the Mount Vernon Public Library?

Reason(s) for Consideration

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

Proposed Handling

This issue will come before the Cultural Education Committee for a recommendation and then the Full Board at its October 2022 meeting where it will be voted on and action taken.

Procedural History

The Regents may remove any trustee of a corporation created by them for misconduct, incapacity, neglect of duty, or where it appears to the satisfaction of the Regents that the corporation has failed or refuses to carry into effect its educational purposes (see Education Law § 226 [4]). In February 2022, the Board of Regents commenced this removal proceeding against each member of the Board of Trustees of the Mount Vernon Public Library (MVPL). The regulations require that the Regents now determine whether the matter should proceed to a hearing.

Background Information

Since commencement of the proceeding, each trustee of the MVPL has been served with a copy of the Order to Show Cause and Petition. An attorney on behalf of the Board of Trustees of the MVPL submitted an Answer. Both MVPL and the Board have had the opportunity to submit all other required pleadings and papers, including memoranda of law.

The Cultural Education Committee, after reviewing the entire record in this matter and consulting with Counsel, recommends that the Board of Regents determine that a hearing is warranted. The Chancellor will then designate a hearing panel and chair, the latter of whom may entertain and rule upon dispositive motions (8 NYCRR § 3.31 [u] [2] [i]), and the hearing will be duly noticed.

Related Regents Items

February 2022: [Proposed Commencement of a Proceeding by the Board of Regents for the Removal of the Trustees of the Mount Vernon Public Library](https://www.regents.nysed.gov/common/regents/files/222bra4.pdf) (<https://www.regents.nysed.gov/common/regents/files/222bra4.pdf>).

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 October 2022 Regents meeting, the Board of Regents take the following action:

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

Timetable for Implementation

If approved:

- The Chancellor will designate three or more members of the Board of Regents to convene as a panel to conduct a hearing. The Chancellor shall also designate one of the panel members to be panel chair.
- The panel chair may entertain, and rule upon, dispositive motions.
- Respondent trustees shall be given at least 10 days' notice in writing of the time and place of such evidentiary hearing, over which the panel chair will preside.
- Upon conclusion of the hearing, a record will be made and the panel will make a written recommendation to the Board of Regents, which may adopt or reject the recommendation, or remand to the panel for further proceedings.
- The decision of the Board shall be in writing and constitute the Board's final determination.