



# Sycamore County School Board

## School Board Access to Personnel Files

The heavy snows in Sycamore County had kept its citizens cooped up for months. Now that the snow had melted and a hint of spring was in the air, the citizens of Sycamore County approached everything they did in work and play with unusual zest and vigor.

Nowhere was this “spring fever” more evident than at the Sycamore County School board meeting. Members of the Board appeared very animated as they prepared to discuss reemployment of teachers for the next school year. Ed Ukates, Superintendent of Sycamore County Schools, paced nervously outside the Board room. He was concerned that there might be some lengthy discussion about his staff recommendations since two of the newly elected board members, Otto Matic and Andrew Thrifty, had campaigned on a platform of increased staff accountability. Ed was right. No sooner had the discussion on teacher contract renewals begun than Andrew Thrifty spoke up.

“I do not believe I can in good conscience accept these recommendations without first having looked at the personnel files of these employees. I don’t know whether they have been evaluated, whether there have been complaints from parents, or anything else about them,” he said.

Otto Matic agreed. “I’ve heard rumblings from my constituents about some of these teachers. I want to see the files. I make a motion that we postpone this decision until the next meeting and that the Superintendent make this information available to us at that meeting.” After very little discussion, the Board approved the motion. Ed Ukates stated he would provide the Board only those materials directly relevant to the specific employment actions to be taken.

The next morning, Ed Ukates sat at his desk, rubbing his temples due to a migraine headache, when Otto Matic walked into his office.

“Ed, I’ve been thinking about last night,” he said. “I think I owe it to my constituents to investigate the actions of all of our employees, not just those being considered for reemployment. I’ve taken the next two days off from work and I’m here to review all of the personnel files.”

“I can’t give those to you,” responded Ed forcefully.

### **Is Ed correct?**

ü Ed is correct with regard to both requests for personnel files. While it is true that the Board has a responsibility to make informed decisions, it also has a duty as the custodian of personnel records to protect an employee’s right to privacy. School board members, by virtue of being members of the general public, may review certain information in accordance with the Virginia Freedom of Information Act. That information includes position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to, any public officer, official or employee at any level of state or local government, except for the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

In addition, school board members may review those aspects of employee personnel files which are necessary to make an informed decision as a board member. Access to personnel files should be limited to those instances where employees are being recommended for or subjected to an employment action requiring a vote of the board or when necessary for other essential duties of the board. Furthermore, access should be limited to only those portions of the files which are necessary to allow the board to perform an official duty.

As to Otto Matic’s desire to review all employee files, he is incorrect. First, an individual board member acting alone does not have authority to review an employee’s personnel files. School board members function as part of the whole and do not have authority as individuals except as expressly delegated by the school board as a whole. In the absence of such express delegation of authority, an individual member has no power to “investigate” employees.

Second, even if Otto had properly delegated authority from the Board, there is not a specific employment action to be considered by the Board with regard to every single employee of Sycamore County Schools. Otto has no official reason to look at all of the files. School board members must recognize that, when they get involved in employee matters before there is a formal matter before the board, they may later find themselves disqualified from considering the matter when it is properly before the board because of potential bias. The day-to-day operation of the school division is in the hands of the division superintendent, not the school board.