



16. The attached December 6, 2010, letter from Mr. Joseph Reilly to the Ocean County College Board of Trustees was read aloud in its entirety by Mr. Reilly at the public Board meeting on December 6, 2010. NJEA representative Mr. Chris Berzinski submitted a request for this document in January 2012, and it was released to him on January 13, 2012.

17. Mr. Berzinski did not request the College response to Mr. Reilly's letter which was written by his supervisor, Ms. Karen Papakonstantinou, on January 31, 2011. This memo represents the College's position and responds to the many inaccuracies and extreme opinions expressed in Mr. Reilly's letter.

December 6, 2010

Joseph B. Reilly, Esq.
Manager of Purchasing
Ocean County College
College Drive
Toms River, New Jersey 08754

Members of the Board of Trustees
Ocean County College
College Drive
Toms River, New Jersey 08754

Re: Proposed Reorganization Plan
Elimination of the Position of Manager of Purchasing
Effective July 1, 2010

Dear Board Member:

In a letter dated November 22, 2010, Karen Blyskal, Director of Human Services, advised me that the President's reorganization plan to address a projected \$1,580,599 FY 2012 budgetary shortfall includes the elimination of 14 College positions, including the Manager of Purchasing position. I am the Manager of Purchasing.

In her November 22, 2010 letter, Director Blyskal advised: "This decision was based on the College's financial emergency and is not the result of any negative work performance." The President has advised you that the Manager of Purchasing position is being eliminated "to create greater efficiency of College operations" that the Manager of Purchasing position is a "function that can be eliminated and done without." I respectfully disagree. The Manager of Purchasing position is a position should be empowered not eliminated.

The duties/responsibilities of the Manager of Purchasing, as described by the College, are:

"Supervise the purchasing function of the College. Oversee the preparation and receipt of public bidding documents, quotes and RFPs. Summarize and evaluate same and recommend vendor selections in accordance with College purchasing practices and State requirements. Responsible for the submission of the monthly procurement Agenda for the Board of Trustees meetings. Maintain a thorough understanding of the College procurement policies and procedures. Provide regularly updated College-wide documentation and training in purchasing procedures. Recommend revised procedures as required for improved operations. Recommend improvements for business practices."

College contracts and College contracting practices that were contrary to procurement law.

2. On July 23, 2010, I forwarded 14 proposed Purchasing Policies and Procedures, modeled after the State Division of Purchase and Property's procurement regulations that I had been involved with both as a State Deputy Attorney General and as the Deputy Director of the State Division of Purchase and Property, to senior staff for approval.
3. On August 19, 2010, I forwarded proposed Standard College Contract Terms and Conditions, modeled after the State Division of Purchase and Property's Standard Contract Terms and Conditions that I had been involved with both as a State Deputy Attorney General and the Deputy Director of the State Division of Purchase and Property, to senior staff for approval.

On September 23, 2010, I received a memorandum from Vice President Winchester titled: "Investigation of Procurement Issues," responding to the concerns I had raised in my July 9, 2010 memorandum regarding the College's procurement practices. Vice President Winchester advised me that both my July 9, 2010, memorandum and her September 23, 2010, response was shared with each of you.

The following quotes are taken directly from Vice President Winchester's September 23, 2010, memorandum:

1. "[T]hese past practices are not desirable and will not be repeated." *The past undesirable procurement practices identified by me took place during the years when there was no Manager of Purchasing and purchasing was overseen by the College's Director of Accounting. Nevertheless, the Manager of Purchasing position is being "eliminated to create greater efficiency of College operations."
2. "After much internal discussion during July and August, the Construction Consultant RPP was awarded to Sebilla Construction Services (the lowest qualified respondent) at the August 23, 2010 Board meeting which is consistent with Mr. Reilly's recommendation. Mr. Patel concluded all work at OCC on 8/31/10." *Awarding the contract to the "lowest qualified respondent," Sebilla Construction Services, instead of Mr. Patel will result in documented savings to the College of \$24,960.
3. "It is now clear that we will not award the Construction Management Consultant contract..." *I voiced concern in my July 9, 2010, memorandum that existing on call contracts awarded by the Board for construction management services did not consider all elements of price. Fourteen purchase orders had been approved totaling \$737,483.
4. "It is now clear that we will not award the Architect Consultant contract..." *I voiced concern in my July 9, 2010, memorandum that existing on call contracts awarded by the Board for architect consultant services did not consider all elements of price. Three purchase orders had been approved totaling \$369,535.
5. "Draft procedures currently under review will specify the make-up of evaluation committees which will include the appropriate Purchasing Department staff. The procedure will also require that any OCC employee who has a conflict of interest cannot be involved in the evaluation of bid proposals." The referenced draft procedures are the Purchasing Policies and Procedures proposed by me on July 23, 2010, which have yet to be submitted to the Board for approval.

and competition solicited. The purported emergency purchase was thereafter cancelled. The statute provides that a purchase that qualifies as an "emergency" under the statute can be made without public bidding.

8. Concern voiced regarding donations being solicited from College contractors for the College Foundation by Director of Facilities during work hours, certainly the appearance of "pay to play."

9. Change order work proceeding in violation of the new standard change order operating procedure issued by President Larson.

10. Concern voiced regarding the College's use of federal General Services Administration (GSA) Supply Schedules. A proposed purchase from a GSA Supply Schedule was pulled from the agenda for this meeting after I pointed out that State and local governments were not permitted by the GSA to use the GSA Supply Schedule in question. A purchase in the amount of \$44,041, utilizing the same prohibited GSA Supply Schedule, was approved by the Board on December 7, 2009.

There have been some procurement successes since my being hired as Manager of Purchasing on June 6, 2010:

1. The concerns I voiced in my July 9, 2010, "OCC Procurement Concerns" memorandum relating to "on call" contracts being awarded without all elements of price being considered are being addressed. Significant savings will be realized when price competition is solicited, on a project-by-project basis.
2. I designed a purchasing website, implemented by IT. Significant savings on printing/postage will be realized. The website will also result in greater competition. Greater competition results in greater savings.
3. I revised the Natural Gas Consortium Consultant RFP. Vice President Winchester has advised County Colleges participating in the Consortium that my revisions will "save substantial dollars" for all participating County Colleges.
4. I am working with the Chief of the State Distribution and Services Bureau to negotiate the most advantageous contract terms with GovSales for the sale of surplus College property on the internet.
5. I am revising/ standardizing form purchasing templates so that the Purchasing Department is in a position to publicly bid all purchases \$10,000 and greater in the event the Board accepts my recommendation in this regard.

It is my opinion that if my proposed July 23, 2010, Purchasing Policies and Procedures are immediately adopted by the Board; if my proposed August 19, 2010, Standard College Contract Terms and Conditions are immediately adopted by the Board; if specifications provided to the Purchasing Department are not restrictive; if the various procedures/procurement reforms promised in Vice President Winchester's September 23, 2010, response to the procurement concerns I voiced in my July 9, 2010, "OCC Procurement Concerns" memorandum are immediately instituted; and if the Board accepts my recommendation to publicly advertise all proposed College purchases \$10,000 and greater, the savings realized will significantly close the projected \$1,580,599 FY 2012 budgetary shortfall.

Joseph B. Reilly
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SUMMARY:

Administrative supervisory experience as Director of the Office of Procurement Services, Montclair State University, Assistant Director, Division of Pensions and Benefits, State of New Jersey, and Deputy Director, Division of Purchase and Property, State of New Jersey. Trial and appellate court experience representing the State of New Jersey as a Deputy Attorney General.

EXPERIENCE:

Member Lake Topanemus Park Commission 2010-Present

Member State Pension and Health Benefits Review Commission 2007-Present

Director, Montclair State University Office of Procurement Services 2006-2008
Oversaw the staff and operations of the Office of Procurement Services. Advised academic departments and administrative offices on all aspects of the public procurement process to ensure a greater understanding and appreciation of the critical importance of University procurements being conducted in full accord with the requirements of the State College Contracts Law.

Assistant Director, State Division of Pensions and Benefits 2003-2006
Oversaw the staff and operations of the Office of Professional Services. Responsible for coordinating the adoption of regulations by the State Health Benefits Commission and the Boards of Trustees of the various State retirement systems in accord with the Administrative Procedures Act.

Oversaw the procurement/negotiation of health benefit contracts on behalf of the State Health Benefits Commission.

State Treasurer's designee on the State Health Benefits Commission.

Deputy Director, State Division of Purchase and Property 1999-2003
Oversaw the daily operations of the Purchase Bureau, including approving all public bid specifications and contract award recommendations; conducting contract award protest hearings; executing contracts; and training staff and State agencies in the Division's procurement regulations and policies.

ELLEN M. CASEY, ESQUIRE

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VIA FAX
(732) 864-3847

Ms. Karen Papakonstantinou
Director of Accounting
Ocean County College
College Drive
PO BOX 2001
Toms River, New Jersey 08754-2001

Re: Joseph B. Reilly

Dear Ms. Papakonstantinou:

Thank you for the opportunity to provide a letter of reference for Joseph B. Reilly. I currently serve as the Director of Internal Supports for the Division of Developmental Disabilities in the Department of Human Services, and am responsible for the management of over \$1 billion in contracts, human resources for over 9,000 employees, IT and financial operations of one of the largest operations in State government.

I have known Mr. Reilly as a colleague, a supervisor and as the head of an operation that relied upon his legal expertise and counsel. Mr. Reilly is the consummate professional, able to provide comprehensive legal counsel to superiors and clear and concise directions to staff. He possesses well developed negotiation skills coupled with a sense of what is commercially reasonable behavior in the public sector.

Mr. Reilly has broad experience in the public contracting sector. As a Deputy Attorney General, Mr. Reilly provided legal advice and direction to the Division of Purchase and Property as well as the Division of Property Management and Construction. Mr. Reilly provided day to day legal advice and counsel on all manner of procurement related issues from the development of a fair specification to thorny issues of bid evaluation and award protests. Mr. Reilly represented both the divisions in a variety of legal forums including the NJ Supreme Court and Appellate Division.

April 29, 2010.

Karen Papakonstantinou
Director of Accounting
Ocean County College

Dear Ms. Papakonstantinou:

I am writing in support of Joseph Reilly's candidacy for the position of "Manager, Purchasing" at Ocean County College.

As Supervisor of the New Jersey State Purchase Bureau, I reported directly to Joe, who served as Deputy Director of the Division of Purchase and Property at that time. I always found him to be polite, courteous and remarkably competent. In fact, he is easily the most knowledgeable person I have ever met in public procurement. As Deputy Director, he was directly involved in all manner of procurement activities, most notably staff training (he personally conducted 'brown bag' lunch time training sessions for the procurement staff); cooperative purchasing (he chaired the Local Government Liaison Committee) and comprehensive bid solicitation review; in which activity he personally scrutinized bid specifications to help ensure they were always an accurate reflection of the using agencies' needs.

Earlier in his career, he served as a Deputy Attorney General, assigned to the Division of Purchase and Property. In that capacity, he was universally esteemed by senior management as the best contract attorney we had.

In sum, Joe Reilly is a conscientious and urbane gentleman possessed of great competence and a world of germane experience.

Sincerely,

Joseph P. Formica
Cell: (267) 994-1130

To: Sara Winchester, VP of Finance
From: Karen Papakonstantinou, Director of Accounting
Date: 01/31/11
Re: Response to Mr. Reilly's letter to the Board of Trustees dated 12/06/10

Per your request, I am responding to the letter Mr. Reilly submitted to the Trustees concerning the restructuring plan and the elimination of the Manager of Purchasing position.

First of all I would like to state that I have been a loyal employee of the College for 29 years and have worked in the Accounting Department in positions of progressive responsibility. During this time I have developed an extensive knowledge of College operations as well as the regulations that govern our business. My goal has always been to do what is in the best interest of the College in the most efficient and effective way possible.

Mr. Reilly stated that prior to his hiring that I, as the Director of Accounting, was responsible for the Purchasing department and given a stipend for this responsibility. I did receive a salary increase in November of 2005 when my position was reorganized. I was given increased responsibilities including but not limited to overseeing the Purchasing Department. The Purchasing Department has continued to report to me since 2005 and I am Mr. Reilly's supervisor. In fact many of the accomplishments listed in his letter to the Trustees were initiated by me and delegated to him over his first few months of employment.

In Mr. Reilly's letter he asserts that at the time of his hire the College's stated policy was to not fill vacant positions. Several people were hired after the February 12, 2009 date that Mr. Reilly refers to and there was never a College policy to leave all positions vacant. In fact several positions in the Finance Division were filled during 2008 and 2009: Donna Carbone was hired as the Manager of A/P and Cash Management, Lisa Now was hired as the Manager of Accounts Receivable, Ruby Nanchoo and Siu Lee Gong were hired as Confidential Payroll Technicians, Pat Chirco was hired as an Administrative Assistant, Barbara Mari and Cynthia Fleureton were hired as P/T A/R Principal Bookkeepers, Keith Bunn and Fausto were hired as Financial Aid Specialists, Gordano Campo was hired as an Administrative Assistant, Thomas Curtin was hired as a Student Loan Advisor, Angelica Velez was hired as a Financial Aid Information Assistant and Kevin Donohoe was hired as Assistant V P Human Resources.

When Mr. Reilly was hired as the Manager of Purchasing I had discussion with him early on concerning the need for OCC to review and revise various policies and procedures in the procurement area. I clearly communicated to him that it was our goal to do this in a systematic way in order to allow time to educate the campus and establish processes that do not impede

the day to day operation of the College. I envisioned a process that would allow input from the President, the VP of Finance as well as the rest of PLT. Rather than proceeding in a collaborative manner, Mr. Reilly issued his memo of July 9, 2010.

I have reviewed his July 9 memo and disagree with his conclusion that purchasing was not being conducted in accord with procurement law. You wrote a detailed response to the July 9 memo and I will not repeat your findings but it is clear that Mr. Reilly does not agree with the College attorney's interpretation of County College contract law. Since I took over supervision of Purchasing in 2005, all awards have been reviewed by the College attorneys before presentation to the Board of Trustees and I have routinely worked with the buyers and the attorneys to be sure we remain in compliance with all applicable laws and regulations. In addition I have been an active member of the NJ Community College Business Officers and Joint Purchasing Consortium for many years and OCCs procurement practices are consistent with our counterparts throughout New Jersey.

Mr. Reilly repeatedly infers that it is illogical to eliminate the Manager of Purchasing position. The position of Manager of Purchasing is being eliminated but the important functions of the position will be assumed by me. I will be physically relocated and assume primary responsibility for the day to day operation of the Purchasing Department. Since Mr. Reilly was hired changes have taken place in Accounts Payable and Accounts Receivable areas that will allow me to devote more time and attention to the purchasing function. I am confident that I have the knowledge and ability to oversee the purchasing function without the Manager of Purchasing position.

Mr. Reilly contends that we should bid all purchases \$10,000 or greater. Current procurement law sets the bid threshold at \$32,000.00. Lowering the threshold would add a tremendous amount of administrative work and cost. Current procedures require quotes for purchases above \$ 6,400.00. Since a competitive process already takes place, converting the quote process to a bid process would not produce cost savings. Mr. Reilly provides no evidence to support his claim that bidding all purchases above \$10,000 would produce cost savings and close the budgetary gap we are facing.

Mr. Reilly refers to the Purchasing Policies and Procedures that he submitted on July 23, 2010. President Larson, you and I have reviewed the drafts submitted by Mr. Reilly and do not recommend they be considered for adoption. The proposed policies are not consistent with OCCs interpretation of procurement law and many of the processes Mr. Reilly recommends are not practical from an operations perspective.

Mr. Reilly also submitted draft standard terms and conditions. This draft was reviewed by College counsel and determined unsuitable for implementation. Counsel recommended we adopted two different sets of terms and conditions for goods and consulting services. The modified terms and conditions were received on February 3, 2011 and will be implemented shortly.

Mr. Reilly's claim that very little progress has been made in revising procedures is untrue. The improvements have not resulted in revised purchasing policies but the improvements do address the procurement problems that were identified. Mr. Reilly's responsibilities are limited to the Purchasing Department and he does not have the scope of knowledge of College operations to appreciate how these improvements will impact procurement. The following improvements have been made since July 2011:

- A new Board approved change order procedure has been implemented.
- A new procedure for establishing and controlling budgets for all projects has been implemented.
- A shared drive has been established to allow the President, Accounting and Physical Plant management to view the current status of all project contracts and budgets.
- The appointment of architects, engineers and construction managers is being handled on a project by project basis.
- Procedures within Physical Plant have been established to ensure estimates or quotes are received before vendors who have blanket POs are authorized to work.
- You and I have drafted proposed procedures for RFPs and RFQs which are under review by PLT. The RFP/RFQ procedures were based on a highly successful model used by the County of Ocean.
- An imaging system for vendor invoices has been implemented. All College Departments can now review and approve invoices in Datatel. This has improved efficiency for all departments including Purchasing.
- A number of positions have been filled in the Physical Plant Department to reduce the use of outside contractors. The use of outside contractors for HVAC, carpentry, electric and auto repairs has been sharply reduced. This will result in cost savings and it will also eliminate many of the problems associated with blanket purchase orders.

The remaining policies and procedures are a work in progress and will be submitted to the Board of Trustees for approval when completed.

I would like to address the section in Mr. Reilly's letter that highlighted the procurement successes since his hire:

- I had discussion with him that concerned our annual blanket purchase orders which he refers to as "on call" contracts. I explained that I wanted to improve our practices but since we had already issued many of these for the FY11 year that we would implement change moving forward. I understood that the blanket purchase orders were not illegal and that we could control costs through better management oversight. The President and College attorney also rejected Mr. Reilly's suggestion that all such contracts be cancelled.

- The purchasing portal was a project that had been underway since October 2009. Ed Tafaro from our IT department under my direction and input from the purchasing staff designed the portal and its pages. I had asked Mr. Reilly to provide content to publish on the pages to bring the project to completion. He did provide this content, I reviewed and made some changes which I sent back to him on 08/26/10, he did not respond back and went ahead and posted the content without making the changes.
- You, as the Vice President of Finance, assigned Mr. Reilly the task of drafting the Natural Gas Consortium Consultant RFP, this accomplishment is a routine task that the Manager of Purchasing is expected to perform.
- Surplus sales have always been the responsibility of the Purchasing Department. The idea to conduct the sale on line through GovDeals was brought to your attention by Michael Putnam. You then assigned Mr. Reilly the task of implementing the on line process. Again, this is a routine expectation of the Purchasing Manager's position.

In closing I would like to say that I have registered for the Public Procurement courses offered by Rutgers University in order to receive CPM certification. This, along with my extensive knowledge of college operations will allow me to successfully manage the process of the purchasing function. I intend to continue to implement positive change and appreciate the opportunity to continue to serve Ocean County College.