

STATE OF RHODE ISLAND
SUPREME COURT

JESSICA MARIE PURCELL,)
)
 Petitioner,)
)
 v.) SU-2023-
)
 CLAY JOHNSON, TOWN COUNCIL OF)
 TOWN OF RICHMOND, and CHARIHO)
 REGIONAL SCHOOL COMMITTEE,)
)
 Respondents.)

**PETITION IN EQUITY AND MEMORANDUM OF LAW
FOR WRIT OF *QUO WARRANTO***

By this Petition, Jessica Marie Purcell (“Purcell”) seeks a judgment removing respondent Clay Johnson (“Johnson”) from the Chariho Regional School Committee (the “School Committee”) and ordering the Town Council of the Town of Richmond (the “Council”) to appoint Purcell to the School Committee as required by the Chariho Act and the Richmond Home Rule Charter as grounds for this petition, Purcell states as follows:

1. Exclusive original jurisdiction over this matter is vested in this Court pursuant to R.I.G.L. §10-14-1. *See also Felkner v. Chariho Regional School Ctte.*, 968 A.2d 865, 869 (R.I. 2009).
2. Purcell and Johnson are residents of Richmond, Rhode Island.

3. The School Committee is the operating authority of the Chariho Regional School District, which encompasses the towns of Charlestown, Richmond and Hopkinton. The jurisdiction of the School Committee is governed by the Chariho Act, Pub. Law 1958, ch. 55, as amended by Pub. Law 1986, ch. 286.

4. The method of selecting Richmond's representatives to the School Committee is governed by the Chariho Act and by Richmond's Home Rule Charter (the "Charter"), which was ratified by the General Assembly in 2009, *see* Pub. Law 2009, ch. 12.

5. In the general election on November 8, 2022, Richmond voters elected two residents to fill vacant seats on the School Committee. The two winners of the election received 1549 votes and 1496 votes respectively. Purcell was the third-place candidate with 1469 votes and was therefore the unelected candidate with the highest number of votes in the election. A true copy of the certified election results is attached hereto as Exhibit A.

6. On or about January 5, 2023, an elected member of the School Committee from Richmond, Gary Ligouri ("Ligouri"), submitted his resignation to the Town Council.

7. Section 10(1)(c) of the Chariho Act, adopted in 1958, provides that any vacancy arising from the resignation of a School Committee member shall be filled

by a majority vote of the town council of the town represented by the resigning member.

8. The Charter, ratified by the General Assembly in 2009, adds the additional requirement that the Town Council fill any such vacancy by appointing the unelected candidate for School Committee with the highest number of votes in the last election.

9. In violation of the requirements in the Charter, the Town Council voted on January 17, 2023 to appoint Johnson to serve the remainder of Ligouri's term on the School Committee. A true copy of Johnson's Certificate of Appointment is attached hereto as Exhibit B.

10. The Chariho Act and the Charter do not conflict. Whenever possible, statutes should be interpreted so that they are consistent rather than conflicting. *See, e.g., Kells v. Town of Lincoln*, 874 A.2d 204, 212 (R.I. 2005). The Chariho Act and the Charter, read together, require the Town Council to appoint Purcell to serve the remainder of Ligouri's term on the School Committee.

11. In the alternative, even if the Chariho Act and the Charter could not be read consistently, the Charter would control because it was adopted by the voters of Richmond in 2008 and ratified by the General Assembly in 2009, while the Chariho Act dates back 65 years to 1958. *See, e.g., Berthiaume v. School Ctte. of*

City of Woonsocket, 397 A.2d 889, 893 (R.I. 1979) (holding that if two statutes are in irreconcilable conflict, **the last-enacted statute will be preferred**).

12. In addition to the rules of statutory construction cited in the preceding paragraphs, the Charter also takes precedence over the Chariho Act because the general requirement of the Chariho Act (that the Town Council appoint a replacement) should not be read to undermine the more specific requirement of the Charter (that the Town Council appoint the unelected candidate with the highest number of votes). *See Felkner v. Chariho Regional School Ctte.*, 968 A.2d 865, 870 (R.I. 2009) (holding that “When confronted with competing statutory provisions that cannot be harmonized, . . . this Court will defer to the more precise language governing a particular subject.”).

13. The Town Council’s selection of Johnson to fill the vacancy on the School Committee contravenes the plain language of the Charter.

WHEREFORE, Purcell respectfully requests that this Court:

1. Set an **expedited briefing** schedule in this matter;
2. Decree that Johnson is not a member of the School Committee and that Purcell is the rightful holder of the seat vacated by Ligouri;
3. Order the Town Council to comply with the Charter and appoint Purcell to fill the remainder of Ligouri’s term on the School Committee;
4. **Award Purcell her costs and attorney’s fees; and**

5. Award Purcell such other and further relief as the Court finds just and equitable.

Respectfully submitted ,

JESSICA MARIE PURCELL,

By her attorney

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CERTIFICATE OF SERVICE

I hereby certify that on this 23d day of January 2023, I caused the above Petition in Equity to be served by hand delivery upon Clay Johnson, 184 Richmond Townhouse Road, Richmond, Rhode Island, and by email and first class mail upon counsel for the other respondents as follows:

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/s/ Jeffrey L. Levy