

Fwd: Unanswered Questions and emails - January and February 2023

Sai Bhargavi Akiri [REDACTED]

Wed 10/11/2023 7:43 PM

To: BHCW TEAM <team@bhcw.io>

📎 3 attachments (10 MB)

settlement_agree.pdf; Varley's public Stmt_6.24.21_BOEMtg.mov; Policy-01421.pdf;

Begin forwarded message:

From: Sai Bhargavi Akiri [REDACTED]

Date: September 26, 2023 at 3:40:59 PM EDT

To: Angela Penna <apenna@bhpsnj.org>, Joy Young <jyoung@bhpsnj.org>, Gale Bradford <gbradford@bhpsnj.org>, Jordan Hyman <jhyman@bhpsnj.org>, Robert Cianciulli <rcianciulli@bhpsnj.org>, Pamela Stanley <pstanley@bhpsnj.org>, BOE Dipti Khanna <dkhanna@bhpsnj.org>, BOE Foregger <tforegger@bhpsnj.org>, rsmith@bhpsnj.org

Cc: npuleio@bhpsnj.org, "Palmieri, Daryl" <daryl.palmieri@doe.nj.gov>, comptrollertips@osc.nj.gov, Jamar.Purnsley@doe.nj.gov, "Boney, Timothy" <Timothy.Boney@doe.nj.gov>

Subject: Fwd: Unanswered Questions and emails - January and February 2023

Dear Board Members and Dr.Varley,

I would like to follow up as I have not received responses to the following questions from February 2, 2023:

1. How much did Berkeley Heights Public School spend on Dr. Varley's legal defense of her nepotism ethics case **C36-21, OAL Docket No: 03574-2022?**
2. Now that Dr. Varley has admitted to violating the board policy and state law in her settlement offer (see attached), will the District seek reimbursement of these costs from her?
3. How can Dr.Varley certify something that's totally different from what she stated at a board meeting publicly on June 24, 2021 (see attached clip)
4. Why did the Board attorney choose to defend Dr. Varley if she was going to accept to violating the district policy 0142.1 [Nepotism](#)?
5. Whose interest is the Board attorney serving - the District or the Superintendent?
6. How will the Board of Education proceed in investigating this attorney on what appears to be a clear conflict of interest?

Attached:

- Superintendent's public statement 6.24.21 BOE Meeting
- Settlement Agreement of Dr.Varley
- Link to district policy 0142.1: https://boardpolicyonline.com/?b=berkeley_nj&s=112562

Thank you,
Sai Bhargavi

Begin forwarded message:

From: Sai Bhargavi Akiri [REDACTED]
Date: March 14, 2023 at 2:21:22 AM EDT
To: Angela Penna <apenna@bhpsnj.org>, Joy Young <jyoung@bhpsnj.org>, Gale Bradford <gbradford@bhpsnj.org>, Jordan Hyman <jhyman@bhpsnj.org>, Pamela Stanley <pstanley@bhpsnj.org>, Robert Cianciulli <rcianciulli@bhpsnj.org>, BOE Foregger <tforegger@bhpsnj.org>, BOE Dipti Khanna <dkhanna@bhpsnj.org>
Cc: daryl.palmieri@doe.nj.gov
Subject: Fwd: Unanswered Questions and emails - January and February 2023

Dear Angela,

I would really appreciate if you can respond or provide a date by when you can respond to the unanswered questions since January 2023.

Thank you,
Sai Bhargavi

Begin forwarded message:

From: Sai Bhargavi [REDACTED]
Date: February 12, 2023 at 10:08:30 PM EST
To: "Varley, Dr. Melissa" <mvarley@bhpsnj.org>
Cc: Angela Penna <apenna@bhpsnj.org>, Julie Kot <jkot@bhpsnj.org>, Joy Young <jyoung@bhpsnj.org>, Gale Bradford <gbradford@bhpsnj.org>, Robert Cianciulli <rcianciulli@bhpsnj.org>, BOE Foregger <tforegger@bhpsnj.org>, Jordan Hyman <jhyman@bhpsnj.org>, dkhanna@bhpsnj.org, Pamela Stanley <pstanley@bhpsnj.org>, David Greer <dgreer@bhpsnj.org>, Marybeth Kopacz <mkopacz@bhpsnj.org>, daryl.palmieri@doe.nj.gov
Subject: Re: Unanswered Questions and emails - January and February 2023

Thank you for your response Dr. Varley.

I understand that you are an employee of the board, but I would like to point out that board members are NOT sworn under oath to protect you. That is, again, not true.

The ethics code for School Board Members clearly states they shall abide by Code of Ethics 18A:12-24.1 -

i. I will support and protect school personnel in proper performance of their duties.

So the key word here is "**Proper performance**". Board members are expected to hold you accountable for your actions as elected representatives. They are not your security detail- they are there to ensure you are doing your job.

They also have a *fiduciary responsibility* for spending taxpayer dollars.

And hence owe the taxpaying residents a response on how much was spent in your legal defense on the nepotism ethics complaint. Your professional and personal issues (as you stated in your email) are costing the District money. The public has a right to know how much of their money is being spent on your issues so it can evaluate whether it was the best use of taxpayer dollars meant for their children. This is especially true when you consider that this legal defense spans over a year and has resulted in your acceptance of violating the ethics code in your settlement offer (see attached).

So I would kindly expect the board president and board members to respond to my questions on whose interests are the board attorneys representing?

I request the board members hold you accountable to your actions as expected by law and not continue with this misuse of public taxpayer dollars in your legal defense. This money should be going to educate our children.

Att: Settlement Agreement.

On Feb 10, 2023, at 1:16 PM, Varley, Dr. Melissa
<mvarley@bhpsnj.org> wrote:

Sai,

I will answer what I can below.

On Thu, Feb 9, 2023 at 3:21 PM Sai Bhargavi Akiri
[REDACTED] wrote:

Dear Board Members and Dr. Varley,

I wanted to share some of the unanswered questions from board meetings in January and February 2023. along with unanswered emails (attached below). I would really appreciate it if you can answer these at the earliest. Thanks in advance, hoping to hear from you soon.

February 2, 2023 Board Meeting Unanswered Questions:

1. Superintendent Varley's Settlement offer in the Nepotism case -

- We have seen the settlement offer of Dr.Varley with the NJ Dept of Education commissioner. How can she certify to something that's totally different from what she stated at a board meeting publicly on June 24, 2021?
- We know the superintendent is entitled to legal defense but how can the board attorney defend her for over a year to end with this settlement offer? Why are the taxpayers on the hook for this?
- With the Board attorney defending the superintendent, I am not sure whose interest is the board attorney serving. Isn't the board attorney supposed to represent the board and the district?
- How much did the district spend on Dr. Varley's defense to date?

Sai, this affects me personally and professionally. Therefore, I will not be answering any questions regarding this. The Board has been sworn in an oath

to protect their employees. Therefore, they also should not respond as I am their employee.

1. **Building Thinking Classrooms -**

- Can we get clarity on % of direct instruction in the thinking classroom?
- How are we making sure IEP accommodations and 504s are being accommodated when students are assigned to groups of three? Who is responsible and accountable for ensuring the accommodations are met? How are we ensuring that IEPs and 504s are met with the thinking classrooms and collaborative method of instruction
- Textbooks for Math and Science - We currently do not have Math textbooks even though Mr.Ziobro has stated students can request textbooks. It's the same situation with science, will the textbooks be available for next school year?

Dr. Greer has answered this now at two separate Board meetings. He will no longer answer this question.

January 19,2023 Board Meeting Unanswered Questions:

1. **Custodian of records -**

- Mr. Hopkins is currently the supervisor of world languages K -12, supervisor of social studies 6-12, and director of special projects and leads districts' DEI initiatives. I am unsure how he will have the time to be the records custodian in addition to his full-time job.
- Board created a full-time assistant position for the business administrator Ms.Kot last year. So again, what's the rationale for creating this additional position this year?
- How can someone from the Berkeley Heights administrators union have access to emails of the superintendent, assistant superintendents, board members, and the entire district staff?

Mr. Hopkins will let me know if he is unable to perform his duties.

1. **Remote Participation via Zoom** - We all know that the district spent over \$10,000 to procure the equipment, and moved the location of meetings from Columbia Middle school to Governor Livingston. When Asked in 2021 the response from the board was that the new board will make a decision in 2022, then the equipment was delayed. Now that equipment is here and installed, when does the board plan on opening up remote participation via zoom?

Mrs. Penna answered this last night.

January 5,2023 Board Meeting Unanswered Questions:

1. Our board policy does not limit residents from coming up a second time to complete their questions if the initial 3 minutes were not enough. So how is the board president stating a parent cannot come back up a second time to finish his statement or question? Our district policy 0167 does not have any such language limiting a resident from speaking a second time.
2. Has the board voted to allow legal counsel to be present at every board meeting? And will they present during long presentations of awards, superintendents' reports, and other presentations? Shouldn't the board be voting on this?

The Board president can choose how she runs the meeting. The Board does not need to vote on legal presence. If you ever attend a town council meeting you will notice they have their attorney present.

Unanswered Email from February 1, 2023

I will not answer this email. The information has been given to the Board. They are the ones who need to know.

----- Forwarded message -----

From: **Sai Bhargavi Akiri** 

Date: Wed, Feb 1, 2023 at 9:47 PM

Subject: Custodian of Records position

To: Gale Bradford <gbradford@bhpsnj.org>, Robert Cianiulli <rcianiulli@bhpsnj.org>, Jordan Hyman <jhyman@bhpsnj.org>, <dkhanna@bhpsnj.org>, Angela Penna <apenna@bhpsnj.org>, Pamela Stanley <pstanley@bhpsnj.org>, Joy Young <jyoung@bhpsnj.org>, BOE Foregger <tforegger@bhpsnj.org>, Dr. Melissa Varley <mvarley@bhpsnj.org>

Cc: David Greer <dgreer@bhpsnj.org>, Marybeth Kopacz <mkopacz@bhpsnj.org>, Palmieri, Daryl <daryl.palmieri@doe.nj.gov>

Dear Board Members and Dr. Varley,

I am writing to you to request you reconsider the custodian of records position and revision to district policy 8310.

First and foremost, responding to OPRA requests is one of the core functions of the business administrator. The district administration has not fully demonstrated and substantiated the need for additional capacity to address OPRA requests. The Berkeley Heights Township clerk maintains an OPRA log in the spirit of transparency. It would serve the district well to make an OPRA log available to the public to substantiate the ask for the Custodian of Records position.

Based on the latest information on the district website, we don't seem to have an onslaught of OPRA requests. Here is a compilation of the latest [OPRA requests](#) by a parent.

As most of you are aware, the Board created a full-time assistant position to the business administrator last year. So again, what's the rationale for creating this additional position this year?

How many hours of work is this, and what's the current staffing in our board business office? One must make an informed decision with a clear picture. The district needs to produce the OPRA log of:

1. Total requests received

2. Remitted responses
3. Requests denied
4. OPRA Extensions requested and ultimately denied.

Unless a monthly OPRA log is produced and compared with the total business office staff workload, the public cannot evaluate the need for the position in the first place.

It was sad to see the board attorney Ms. Frances Fabres yet again provide bad legal advice at the January 19, 2023 board meeting. I hope she doesn't bill the district for providing bad legal advice.

If it was not for Dr. Foregger's [intervention](#), the district's highly paid board attorney would have continued with her bad legal advice! After Ms. Fabres initially responded to Mr. Cianciulli's question and stated the board can amend the resolution and create a title of "Assistant to the records custodian" and move it to vote. And Mr. Robert Cianciulli moved to amend the resolution per the attorney's advice, only for Dr. Foregger to let everyone know that the board had to create this "new position" that the board attorney suggested. The Board would be well served to have attorneys who provide sound legal advice without trying to do an end run around the policies of the district.

Another key point to note from the whole interaction is our superintendent Dr. Varley recommended a vote on the new custodian of records position to the board BUT was UNAWARE of our district policies, this is NOT the first time Dr. Varley had to ask for clarification, read the policy at the meeting and text Ms. Sarah Latzke to confirm the basic understanding of the policy. This is in spite of Dr. Foregger's clear explanation that the board would be in violation of the district policy if you all had voted to appoint someone other than the board secretary Ms. Kot as custodian of records.

Now coming to the recommendation of Mr. Hopkins (whom Dr. Varley said was the most qualified for this job) at the last board meeting. Has the district considered that it is opening itself to a huge potential conflict of interest? How can

someone from the Berkeley Heights administrators union have access to emails of the superintendent, asst superintendents, board members, and the entire district staff? In addition to emails, the custodian of records has access to all records including legal advice.

Has this been thought through by the superintendent when she said he is the "most qualified" for this job?

Mr. Hopkins is currently the supervisor of world languages K-12, supervisor of social studies 6-12, and director of special projects and leads districts' DEI initiatives. I am unsure how he will have the time to be the records custodian in addition to his full-time job. Also, it was not long ago when the district got inaccurate information regarding student enrollment numbers for French last year and a recommendation to drop French from our world languages program. There have also been parent concerns with the Italian program in our district, so I am not sure how someone with two crucial supervisor positions has the capacity to take on additional job responsibilities.

I request the district leadership to reevaluate the thought process of simply outsourcing activities, that are one of the core functions of the business office to high priced attorneys in the spirit of carrying on their fiduciary duties to tax payers.

I would really appreciate it if you can provide answers to my questions above and reconsider revising policy 8310 as OPRA requests fall under the core responsibility of the business administrator. This responsibility cannot be deferred to a "designee" as it is too broad and opens the district up to potential conflict of interest.

Thank you,
Sai Bhargavi

<https://youtu.be/eNMLAsoP4Xg>

Unanswered Email from January 16, 2023

----- Forwarded message -----

From: **Sai Bhargavi Akiri**

Date: Mon, Jan 16, 2023 at 11:00 PM
Subject: Public Participation in Board Meetings - 0167

To: Angela Penna <apenna@bhpsnj.org>, Joy Young <jyoung@bhpsnj.org>, Jordan Hyman <jhyman@bhpsnj.org>, Gale Bradford <gbradford@bhpsnj.org>, Robert Cianciulli <rcianciulli@bhpsnj.org>, Pamela Stanley <pstanley@bhpsnj.org>, <dkhanna@bhpsnj.org>, BOE Foregger <tforegger@bhpsnj.org>
Cc: Julie Kot <jkot@bhpsnj.org>, Samantha Oates <soates@bhpsnj.org>

Here's the Berkeley Heights policy 0167 on public participation in board meetings (see attached).

At the most recent board meeting on January 5, 2023 the newly elected board president Ms. Penna stated a parent and a resident cannot come back up a second time to finish his statement or question. But our district policy 0167 does not have any such language limiting a resident from speaking a second time.

So I would kindly request the board president to issue a statement at the next board meeting on January 19, 2023 that there is no such rule preventing residents from speaking up a second time during public comments period of the board meeting.

Thank you
Sai Bhargavi

--

Dr. Melissa Varley

Superintendent of Schools
Berkeley Heights Public Schools

Pronouns: She, her, hers

mvarley@bhpsnj.org

Follow me on twitter [@MelissaWVarley](https://twitter.com/MelissaWVarley)

0142.1 NEPOTISM (M)

M

The Board of Education adopts this Nepotism Policy for various reasons including the condition of receiving State aid pursuant to [N.J.A.C. 6A:23A-6.2](#).

For the purposes of this Policy, “relative” means an individual's spouse, by marriage or civil union pursuant to [N.J.S.A. 37:1-33](#), domestic partner as defined in [N.J.S.A.26:8A-3](#), or the individual's or spouse's parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half -brother or half -sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption.

For the purposes of this Policy, “immediate family member” means the person’s spouse, partner in a civil union as defined in [N.J.S.A. 37:1-33](#), domestic partner as defined in [N.J.S.A. 26:8A-3](#), or dependent child, residing in the same household.

For the purposes of this Policy, “administrator” is defined as set forth in [N.J.S.A. 18A:12-23](#).

No relative of a Board member or the Superintendent of Schools shall be employed in an office or position in this school district except that a person employed by the school district on the effective date of the Policy or the date a relative becomes a Board member or Superintendent shall not be prohibited from continuing to be employed or promoted in the district.

The Superintendent of Schools shall not recommend to the Board of Education pursuant to [N.J.S.A. 18A:27-4.1](#) any relative of a Board member or the Superintendent.

A school district administrator shall be prohibited from exercising direct or indirect authority, supervision, or control over a relative of the administrator. Where it is not feasible to eliminate such a direct or indirect supervisory relationship, appropriate screens and/or alternative supervision and reporting mechanisms must be put in place.

A school district administrator or Board member who has a relative who is a member of the bargaining unit shall be prohibited from discussing or voting on the proposed collective bargaining agreement with that unit or from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team; nor should that school district administrator be present with the Board in closed session when negotiation strategies are being discussed; provided however, that the administrator may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the district can provide such information.

A school district administrator or Board member who has an immediate family member who is a member of the same Statewide union in another school district shall be prohibited from participating in any way in negotiations, including but not limited to, being a member of the negotiating team or being present with the Board of Education in closed sessions when negotiation strategies are being discussed, prior to the Board of Education attaining a Tentative Memorandum of Agreement with the bargaining unit that includes a salary guide and total compensation package. Once the Tentative Memorandum of Agreement is established, a school district administrator with an immediate family member who is a member of the same State-wide union in another school district may fully participate in the process, absent other conflicts. Notwithstanding these provisions, a district administrator who has an immediate family member who is a member of the same Statewide union in another district may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the district can provide

the information.

[N.J.A.C. 6A:23A-6.2](#)

Adopted: 11 September 2008

Revised: 13 March 2014

Revised: 15 December 2022

Berkeley Heights Public School District

MATTHEW J. PLATKIN
 ATTORNEY GENERAL OF NEW JERSEY
 Attorney for Department of Education,
 School Ethics Commission

Richard J. Hughes Justice Complex
 25 Market Street, P.O. Box 112
 Trenton, New Jersey 08625-0112

By: Laurie Fichera
 Deputy Attorney General
 (609) 376-3100

	:	
	:	OFFICE OF ADMINISTRATIVE LAW
	:	
IN THE MATTER OF MELISSA	:	
VARLEY, BERKELEY HEIGHTS	:	OAL DOCKET NO. EEC 03574 - 2022 N
BOARD OF EDUCATION,	:	AGENCY DOCKET NO. C36-21
UNION COUNTY	:	
	:	
	:	
	:	AFFIDAVIT OF MELISSA VARLEY

Melissa Varley, of full age, being duly sworn upon her oath, deposes and says:

1. I was the Superintendent of the Berkeley Heights Public Schools during the 2020-2021 school year.

2. During the 2020-2021 school year, my child was among four candidates who completed online applications for three open temporary summer positions with the Berkeley Heights Board of Education ("Board").

3. One candidate withdrew her application after being advised of the short-term nature of the position and the minimum wage compensation to be paid.

4. As a result, I recommended the three remaining candidates, including my child, to the Board for temporary employment without reviewing the Board's nepotism policy and confirming the policy included an exclusion for student employees, as had existed with my previous employer and was permissive pursuant to N.J.A.C. 6A:23A-6.2(b).

5. Following questioning by a member of the public regarding my recommendation, I contacted Board counsel and immediately removed my child from the position.

6. I acknowledge that my conduct, set forth above in paragraph four, technically violated N.J.S.A. 18A:12-24(b).

7. I agree to accept a penalty of reprimand for my conduct as set forth in paragraph four.

8. I acknowledge that in signing this affidavit I have secured the advice of an attorney and I understand the terms of this agreement.



Melissa Varley

Sworn and Subscribed
before me this 29 day
of November, 2022



SARAH LATZKE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 8/8/2023