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**From:** John Migueis

**Sent:** Sunday, October 1, 2023 7:16 PM

**To:** apenna@bhpsnj.org <apenna@bhpsnj.org>; jyoung@bhpsnj.org <jyoung@bhpsnj.org>; rcianciulli@bhpsnj.org <rcianciulli@bhpsnj.org>; tforegger@bhpsnj.org <tforegger@bhpsnj.org>; pstanley@bhpsnj.org <pstanley@bhpsnj.org>; dkhanna@bhpsnj.org <dkhanna@bhpsnj.org>; gbradford@bhpsnj.org <gbradford@bhpsnj.org>; jhyman@bhpsnj.org <jhyman@bhpsnj.org>; mvarley@bhpsnj.org <mvarley@bhpsnj.org>; sehopkins@bhpsnj.org <sehopkins@bhpsnj.org>; rsmith@bhpsnj.org <rsmith@bhpsnj.org>

**Subject:** Pending Settlement - Docket No. UNN-L-2758-23

During the past year, I have asked you whether you or any member of the District has been instructed to delay OPRA Requests intentionally.

Many of our contributors have also pointed to the skyrocketing costs connected to legal bills - **we are now budgeted at \$170,000** when in 2018 we were spending ~\$70,000.

from the audit	Actual
July 2016-June 2017	\$63,416.33
July 2017-June 2018	\$58,879.59
July 2018-June 2019	\$69,562.19
July 2019-June 2020	\$102,525.96
July 2020-June 2021	\$81,671.30
July 2021-June 2022	

I want to call your attention to the attached potential settlement referenced by the District's Attorney on September 19th of this year on an OPRA case. I do not believe this was discussed in the last BOE Meeting: <https://bhcommunitywatch.com/wp-content/uploads/2023/10/CivilCaseJacket-1.pdf>

This would be the second outcome of an OPRA case that the District would either lose or settle on this year. We also know there are other pending cases.

Name	Venue	Docket Number	Case Caption	Case Initiation Date
BERKELEY HEIGHTS BOARD OF EDUC	UNION	<a href="#">L-002758-23</a>	[REDACTED] VS BERKELEY HEIGHTS BOA RD OF ED	08/21/2023
BERKELEY HEIGHTS BOARD OF ED	UNION	<a href="#">L-002947-22</a>	[REDACTED] VS BERKELEY HEIGHTS BOA RD OF	10/10/2022
BERKELEY HEIGHTS BOARD OF ED	UNION	<a href="#">L-002248-22</a>	[REDACTED] BERKELEY HEIGHTS BOA RD OF ED	08/04/2022
BERKELEY HEIGHTS BOARD OF EDUC	UNION	<a href="#">L-001548-22</a>	[REDACTED] BERKELEY HEIGHTS BOA RD OF ED	05/27/2022
BERKELEY HEIGHTS BOE	UNION	<a href="#">L-003802-21</a>	[REDACTED] HEIGHTS BOE	11/05/2021

This occurs in a context where the District is redacting records and denying the existence of records in a way that most reasonable people would conclude is a severe and deliberate deviation of the law and whose responses are sometimes personal and provocative.

Considering all this, it appears the District is purposely delaying OPRA requests and is willing to use District dollars to pay not only its attorneys but also the plaintiff's counsel to extend a response to the very last minute.

It leads me to wonder whether these delays are purposeful and connected to statutes of limitations on potential violations in ongoing ethics cases, to which information from these requests would provide clarity.

If true, and it certainly appears to be accurate based on the timelines involved with several open ethics cases, this means that dollars that should be going to our classrooms are being spent in extraordinary ways to protect the seats of high-level administrators and elected representatives.

One BOE Member consistently repeats the mantra of your focus being "about the kids," yet her votes, her behavior, and this practice appear to contradict our students' best interests.

So I will ask again.

Have any of you observed District Counsel advising the Board of Education or Administration (in part or whole) to delay OPRA Requests deliberately?

Are any of you aware of such guidance?

I expected a firm "**No**" to this answer, yet none of you responded in almost six months after at least two attempts.

Is the District's strategy now to force costly lawsuits and settlements as an acceptable price to pay for a little more time before responsive documents are provided or improper redactions are reversed?

**Why hasn't the Board of Education discussed these cases in public meetings?**

And one more question - **is the entire Board aware of this settlement offer? Has the Board as a whole voted on this settlement offer?**

I would appreciate a response to these questions. Ms. Penna, Ms. Young, Ms. Stanley, Mr. Hyman, Ms. Bradford, and Mr. Cianculli - **would you allow Dr. Forreger and Ms. Khanna to answer these questions without threat of being chased down in hallways and parking lots?** Can you ask the BOE Attorney whether whistleblower laws would protect Dr. Foregger and Ms. Khanna?

I imagine since we want the focus to be on "about the kids" - the increase in legal spending affecting our students is something you would all be motivated to put an end to.

Source of letter and screenshot of cases: <https://www.njcourts.gov/>

ps. To the members of the doe, oag, oal and sec (and anyone else I missed) - I don't need an email asking me not to email you (I will continue to do so). Nor do I need an email asking if I want to file an ethics complaint that will take multiple years with an anemic prosecution clearly designed to protect the same folks you should be holding accountable for some while clearly ignoring your own rules in pursuing the prosecution of others.

If you want to send them anyway - knock yourselves out.

I just want to make you aware of the mess you are continuing to allow with your inaction - this is FAR from the worst of it- but you already know that.

John Migueis

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[Berkeley Heights Community Watch](#)



[www.bhcw.io](http://www.bhcw.io)