



Vincent Caravello <vcaravello@marlboro.k12.nj.us>

Fwd: March 28th, 2023 BOE Meeting - Email 1 of 3

Kathleen Amster <kamster@marlboro.k12.nj.us>

Wed, Mar 29, 2023 at 2:38 PM

To: Michael Ballone <mballone@mtps.org>, Vincent Caravello <vcaravello@marlboro.k12.nj.us>

Another one

Kathleen

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

From: **Brian and Fran Cohen** <brianandfran@gmail.com>

Date: Wed, Mar 29, 2023 at 2:35 PM

Subject: March 28th, 2023 BOE Meeting - Email 1 of 3

To: <Boardmembers@mtps.org>

CC: <Lester.richens@doe.nj.gov>, <mballone@mtps.org>, <ehibbs@mtps.org>, <Angelica.Allen-mcmillan@doe.nj.gov>

Dear Members of the Marlboro BOE and Stakeholders,

This is one of three emails I am sending today, as a taxpayer and community member, to address my concerns about three distinct issues raised during the Marlboro BOE meeting held on March 28th, 2023.

At time stamp 1:23:00, I watched what I saw as an egregious violation of the BOE's ethical, legal, and moral obligation to a taxpayer, parent, community, and to our schools. Mark Zitomer, Esq. was directed to read a statement described as being written by and on behalf of the BOE to the public. That statement singled out one parent who filed ethics complaints with the appropriate legal authority (the NJ School Ethics Commission). It is indisputable that the parent had the legal right to file his complaints, and that the complaints have not yet been ruled upon by the commission on their merits. It is also indisputable that, unlike the BOE, the parent never brought his complaints to the attention of the public.

In my opinion, the public berating of a parent who filed a legally permitted complaint was a violation of the School Ethics Act, specifically, the obligation to "hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools."

That is also not the only problem with this statement read by Mr. Zitomer.

This statement reflected a significant departure from past BOE responses to numerous legal and ethical complaints, after which prior BOEs never publicly shamed or berated any other plaintiff, petitioner, or claimant. Mr. Thor was treated differently than any other parent or person before him, because he exercised his right to free speech and filed a complaint in accordance with his right to do so under the law.

As an elected public governmental entity, I believe that by reading that statement publicly, and later publishing it to YouTube, the BOE may have violated Mr. Thor's constitutional right to free speech and exposed this community to further legal action. Perhaps most alarmingly, by doing so, this BOE took retaliatory action against one parent that will have a chilling effect on anyone else who might consider exercising their free speech rights by speaking up when they believe that a BOE member might have engaged in improper conduct. I view this as a retaliatory action, and an abuse of power and discretion.

I have also received information that suggests that the statement that was read by Mr. Zitomer contained numerous misstatements of fact, which, given that the BOE had accurate information at its disposal, appear to have been deliberate and designed to damage Mr. Thor's reputation:

1. The statement claimed that Mr. Thor had filed multiple ethics complaints since January of 2023 against several board members. It is my understanding that Mr. Thor filed **two ethics complaints** against **two different board members**. One was filed in December of 2022, and one in March of 2023. If accurate, then this claim was false and misleading.
2. The statement asserted that "by law, the board is required to reimburse these board members for their legal fees and costs against these charges." The statement implied that the full litigation expense would be absorbed by the taxpayers and impact the school budget. I believe that the BOE has insurance which covers these claims, including the cost of legal fees, and by implying that the entire litigation expense would fall upon taxpayers and schools, this claim appears to have been deliberately misleading.
3. The statement asserted that Mr. Thor's claims were frivolous. First, the BOE is not the adjudicating body, and the adjudicating body has not ruled on the allegations, rendering the statement false. Further, as I understand it, one of the claims alleged that Ms. Amster had a conflict of interest that arose from her BOE position and her role in SEPAG, and that Mr. Thor's claims are supported by both an advisory opinion on a similar issue, as well as by actual notice sent to Ms. Amster in which she was cautioned about the appearance of a conflict of interest due to dual roles. I have also been told that Ms. Amster recently resigned from her role in SEPAG, diffusing the ongoing conflict. Whether Ms. Amster is found to have committed an ethical violation or not will be determined by the School Ethics Commission, but regardless of the result, it appears evident that Mr. Thor's claims are certainly not frivolous.
4. The statement went on to say that "we can only surmise that these ethics charges are politically motivated and based on Mr. Thor's dissatisfaction with the November election." Neither of the two ethics complaints was filed against a person who won the November election, and Mr. Thor did not publicize his allegations. As such, this statement is false and misleading. Furthermore, immediately after the BOE meeting ended, a member of the public and current BOE ally posted the meeting to social media and directed the public's attention to Mr. Zitomer's reading of the BOE statement regarding Mr. Thor's complaints. The post was placed in a forum with an audience of thousands, one in which Mr. Thor has been blocked from participating, and which is administered, ironically, by a person who previously filed an ethics complaint against Dr. Hibbs. Shortly thereafter, a member of the community posted a 1-star review to Mr. Thor's professional google page, and while that review appears to have since been removed, the damage done is obvious. The only entity that politicized these complaints was the BOE, with the apparent goal of defaming Mr. Thor and chilling free speech in this community.

I am deeply concerned that the statement read on behalf of the BOE by Mr. Zitomer has the potential to result in significant litigation, both for its chilling effect on legal and free speech, and for the corresponding defamatory, harassing, and false content that it unleashed in the ensuing social media frenzy targeting Mr. Thor. This kind of litigation has the potential to result in a finding of both actual malice, and could lead to punitive damages, hurting our schools, community, and mostly, our children.

I believe the statement read on behalf of the BOE by Mr. Zitomer demonstrates that the BOE is fostering a toxic environment that has caused a crisis of faith in its ability to service this community and the children of Marlboro.

I believe that this BOE has an ethical obligation to uphold its oath, New Jersey laws and regulations, and the US Constitution.

I believe that this BOE has crossed a line that I fear will have significant consequences to our district unless corrective measures are taken immediately, including a public apology to Mr. Thor.

This BOE needs to be mindful that its duty is to the community, and each member must put their personal grudges aside when doing their job, or they must resign if they are not able to do so. The BOE needs to fix this self-inflicted mess immediately.

I look forward to the courtesy of a response.

Regards,

Francine Cohen