

## **Questions and Answers on Concord School Board Response to Leung Misconduct<sup>1</sup>**

Posted December 9, 2019

### **What did Concord School Board members know about the initial Howie Leung investigation as it was being conducted in 2018-19, and when did they know it?**

The only board members who were aware of the investigation prior to Mr. Leung's arrest were the board president and vice president. The information shared with those two members was extremely limited, and neither knew more than minimal information until they read Attorney Djuna Perkins' report in late September of 2019. What was shared earlier did not in any way reveal the magnitude of Mr. Leung's actions or give cause to believe students were at risk.

### **Why wouldn't the superintendent have shared information about the investigation with the board?**

A superintendent is responsible for overseeing staff and taking disciplinary actions. Board members must remain impartial so they may hear an appeal of any action taken by the superintendent, without having prejudged the facts. Thus, it is typical for a superintendent to share only general and limited information with board members about personnel matters occurring within the schools.

### **Shouldn't board members have reported the car incident to the police in December or January?**

The limited information that was shared with the two board members during the 2018-19 investigation did not give them a reasonable basis to conclude that Mr. Leung was engaged in a sexual relationship with a student, which could have triggered a duty to report to police.

### **Shouldn't these board members have insisted on a more thorough investigation, or investigated the matter themselves?**

At the time, these board members believed, based upon their limited discussions with the superintendent, that the school district was conducting a thorough and appropriate investigation. As noted above, investigating allegations and taking disciplinary action with respect to staff members is the duty of the superintendent, not board members.

### **When did board members learn that Mr. Leung had engaged in the type of conduct that resulted in the filing of criminal charges?**

In the week prior to Mr. Leung's arrest, the board president and vice-president were made aware that a search warrant had been executed at Concord High School (CHS) relating to Mr. Leung. However, they were told that police had prohibited the superintendent from sharing this fact with anyone, including other board members, until such time as an arrest was made. The president and vice-president, along with other board members, only learned of the nature of

---

<sup>1</sup> Please note that this Q&A document pertains only to the board's role and actions. Many of these questions were answered verbally during the board's November 4, 2019 meeting; these answers are now being posted as discussed during that meeting. Other matters included in the questions given to the board by members of the public in early November will be addressed by Interim Superintendent Frank Bass as the District's response progresses. For matters that are the subject of litigation, District legal counsel will reply in the court proceeding.

the charged conduct after the charges were reported in the press. This was when they first became aware of the allegations that Mr. Leung's misconduct involved other students and conduct prior to the December 2018 incident.

**Why didn't board members know that CHS Principal Tom Sica was working while on "voluntary" leave?**

Prior to September 27, Mr. Sica was supervised by Superintendent Terri Forsten, not by the Board. Board members knew Mr. Sica was on "voluntary leave" but not the details of what that entailed. While board members were aware he was performing some duties, the board would have had no reason to see his emails, or to know the details of his duties, which were set by Superintendent Forsten. Board members were surprised to learn that Mr. Sica had been involved to the degree revealed by the emails reported on by the Concord Monitor.

**Why didn't Attorney Perkins or Attorney Bennett inform the board of Mr. Sica's work activities, if they were aware of them?**

While Attorney Perkins and Attorney Stephen Bennett were aware that Mr. Sica was still involved in some school business, they did not know the nature or details of the work he was performing. More importantly, however, there has been no contact between Attorney Perkins and board members, other than what is contained in her written reports. This approach was adopted in order to maintain the independence of her investigation into the district's response to Mr. Leung's misconduct. While the investigation was being conducted, Attorney Bennett's role was to assist Attorney Perkins in the interview scheduling process and to request documents required by Attorney Perkins. He did not review documents or attend interviews. Attorney Bennett was the liaison between Attorney Perkins and the board; however, that role did not include passing on factual information, impressions or conclusions to board members.

**What type of work did Attorney Bennett do directly with Superintendent Terri Forsten? Was that part of his charge from the board, to work with or for Superintendent Forsten?**

Attorney Bennett had limited contact with Superintendent Forsten and her staff in connection with the scheduling of interviews with district staff members and obtaining documents required by Attorney Perkins. Other than this work as a liaison between Attorney Perkins and the board/district, he had no contact with Superintendent Forsten except to the extent that she was present during Board sessions that he attended. Attorney Bennett did not advise Superintendent Forsten on any matter concerning district operations.

**Why were Mr. Sica and Superintendent Forsten still being paid by the district after the board placed them on leave in September?**

Both Mr. Sica and Superintendent Forsten were placed on paid leave by the board on September 27, 2019, and both resigned effective November 1, 2019. By law, each had the right to remain in paid leave status while the issues that led to their being placed on leave were resolved. Had the district not resolved these matters by agreement, the terms of their contracts and state law would have afforded each of them a hearing before the Concord School Board, a possible appeal to the State Board of Education and, if necessary, an appeal to the New Hampshire Supreme Court. Had either Mr. Sica or Superintendent Forsten elected to exercise

those rights, these matters could have remained unresolved for a year or more, hampering the District's ability to hire interim and permanent leadership for the schools.

**Did Mr. Sica or Superintendent Forsten perform any duties after the board placed them on leave?**

The only duties Mr. Sica and Superintendent Forsten were permitted to perform after the board placed them on leave in late September were things that only they could do, such as testifying under subpoena at a court or administrative hearing about events they observed or actions they took in connection with their work with the district. Any instance of performing such duties required prior consultation with board/district counsel.

**Did Mr. Sica's continued involvement with district operations during his "voluntary" leave compromise the integrity of the investigation, and should it be reopened on that basis?**

Attorney Perkins did not discover any evidence that Mr. Sica's work involved anything to do with her investigation nor does there appear to be any evidence contained in the emails released to the Concord Monitor that Mr. Sica influenced or attempted to influence the outcome of the investigation. As the board has revealed by unsealing the minutes of its September 25, 2019, non-public meeting, the board took immediate action to terminate both Superintendent Forsten's and Mr. Sica's employment as soon as all board members had reviewed the Perkins report. In addition, Interim Superintendent Frank Bass has reviewed the Perkins report and assumed responsibility for recommending any further actions regarding district personnel and policies. Given that appropriate action has been taken or is underway, there is no need to reopen the investigation.