

# BELLAIRE BOARD OF EDUCATION REGULAR MEETING

November 23, 2015

Bellaire Middle/High School – Performing Arts Center

- A. The meeting was called to order by R. Silk at 6:30 p.m.
- B. Board members Present: A. George, T. Martinek, M. Robinson, P. Savant, R. Silk, P. Wendling, W. Mann
- Administrators: J. Emery, K. Poel
- C. R. Silk led everyone in the Pledge of Allegiance.
- D. Approval of the Consent Agenda:  
15-70 Motion by P. Wendling, seconded by M. Robinson, to accept the consent agenda as presented.  
Yeas: A. George, T. Martinek, M. Robinson, P. Savant, R. Silk, P. Wendling, Walt Mann. Nays: None. Motion carried
- E. Communications:  
B. Fischer shared that Bellaire Public Schools received top honors for our Sportsmanship. Voting for this award is done by the Sports officials and is based on the sportsmanship of the FANS, STUDENTS & TEAM, and is only given to 100 schools in the State.  
“TOP 100 SCHOOLS IN THE STATE SPORTSMAN AWARD” way to GO Bellaire!!!!
- F. Administrators’ Reports:
1. Elementary/Middle School Principal – Kristi Poel
    - Raven Hill – Museum on the Go – were at our school for grades K-5
    - Schoolwide Reading K-5 is going well
    - Josh Davis Trio were a great hit – special Thank You to the Dockside for their generous donation
    - Veterans Day Assembly – Excellent – K-12
    - PTO Book Fair – the Teachers received their TopTen Books from the PTO

## UPCOMING DATES

- November 24 MS Boys and Girls BBall (5:30)
  - November 30 MS Boys BBall (5:30)
  - December 2 MS Honor Roll Assembly (2:15)
  - December 8 MS Christmas Concert
  - December 9-11 EL Holiday Shopping (PTO)
  - December 11 EL Holiday Craft Workshops
  - December 11 MS Boys BBall (5:30)
  - December 17 Elementary Christmas Program (HSGym)
2. Jim Emery updated the Board on the following items:
    - **Parent/Teacher Conferences** The fall conferences took place on Tuesday, November 17 (4:30-7:45 pm) and Thursday, November 19 (4:30-7:30 pm). A total of 50% of the students were represented by parents/guardians. PowerSchool helps keep parents connected throughout the school year and this most likely affects the overall numbers.
    - **HS Honor’s Band in Petoseky** On December 5<sup>th</sup> and 6<sup>th</sup> – four high school band members will be performing at Petoskey in the District Honor’s Band. Sophomore Isaac Bigsby (oboe); junior Erin Emery (French horn); junior CJ Miller (bass clarinet); and junior Maggie Rathke (alto sax) will be practicing with their peers from all across northern Michigan all day Saturday followed by the District Honor’s Band Concert that takes place on Sunday, December 6 (tbd)

- **HS Band/Choir Concert** The High School Band and Choir will hold their winter concert on Monday December 7 at 7:00 pm in the PAC.

### **UPCOMING DATES**

- Monday, November 23 - Board of Education Meeting 6:30 pm in PAC MSBBB @ Forest Area
- Tuesday, November 24 – MSGBB vs Gaylord St. Mary; MSBBB vs Pellston
- Wednesday – Friday November 24-27 – Thanksgiving Break
- Monday, November 30 – MSBBB vs Mancelona
- Tuesday December 1 – MSGBB @ Mancelona
- Wednesday, December 2 – MSGBB @ Inland Lakes; GBB vs Northport
- Thursday, December 3 – MSBBB @ Joburg
- Saturday, December 5 – High School District Honor’s Band – Petoskey
- Sunday, December 6 – High School District Honor’s Band Concert – Petoskey
- Monday, December 7 – MSBBB @ Central Lake; HS Band/Choir Concert @ 7pm in PAC
- Tuesday, December 8 – BBB @ Harbor Springs; MS Band Concert @ 7pm in PAC
- Wednesday, December 9 – MSBBB @ Pellston; GBB vs Pelston
- Thursday, December 10 – BBB vs Charlevoix
- Friday, December 11 – MSBBB vs Forest Area; GBB @ Onaway
- Tuesday, December 15 – BBB vs. Pelton
- Wednesday, December 16, MSBBB @ Petoskey St. Francis; GBB@ Mancelona
- Thursday, December 17 – Elementary Christmas Program in HS Gym @ 7pm
- Friday, December 18 – BBB @ East Jordan; GBB vs Forest Area
- Monday, December 21 – Board of Education Meeting @ 6:30 pm in PAC

F. Action Items:  
None

I. Other Business:

- Question on the Website Domain
- Question on the Washington Trip

J. Public /Board Comment:

- A. George reported meeting of Bellaire Community in Action was very positive. The next meeting is tentatively December 14<sup>th</sup>
- It was noted that the light refreshments for the Parent/Teacher Conferences, served by “CIA” was very appreciated.

P. Adjournment:

15-71 Motion by T. Martinek, seconded by P. Wendling to adjourn the meeting at 7:00p.m. Yeas: A. George, T. Martinek, M. Robinson, P. Savant, R. Silk, P. Wendling, W. Mann Nays: None. Motion carried.

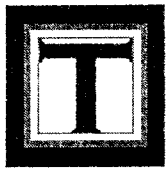
---

Patricia Savant  
Recording Secretary & Board Secretary

Bellaire Public Schools  
Board of Education Regular Meeting  
November 23, 2015  
6:30 p.m. Secondary Building Performing Arts Center

Agenda

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Consent Agenda
  - 1) Approval of Agenda for current meeting
  - 2) Approval of Minutes of the October 26, 2015 Regular Meeting
  - 3) Approval of Minutes of the October 28, 2015 Special Board Meeting
  - 4) Approval of bills in the amount of \$125,476.52
  - 5) Bellaire Board of Education adopts the findings and conclusions pertaining to investigation of compliance with Board of Education Policy 8260 as set forth in legal counsel's draft correspondence of November 23, 2015.
  - 6) Bellaire Board of Education adopts the findings and conclusions pertaining to investigation of compliance with Board of Education Policy 5235 as set forth in legal counsel's draft correspondence of November 23, 2015.
- E. Communications:
  - 1) From the Public
- F. Administrators' Reports:
  - 1) Elementary/Middle School Principal
  - 2) High School Principal/Superintendent
- G. Action Items:
  - 1) None
- H. Other Business
- I. Public Comment
- J. Board Comment
- K. Adjournment



# THRUN

LAW FIRM, P.C.

U.S. Mail Address:  
P.O. BOX 2575  
EAST LANSING, MI 48826-6386  
PHONE: (517) 484-8000  
FAX: (517) 484-0041  
FAX: (517) 484-0081

ALL OTHER SHIPPING:  
2900 WEST ROAD, SUITE 400  
EAST LANSING, MI 48823-6386

MICHAEL B. FARRELL	ROY H. HENLEY	KIRK C. HERALD	DAVID M. REVORE	KATHERINE WOLF BROADDUS
GORDON W. VAN WIEREN, JR.	ROBERT G. HUBER	MARGARET M. HACKETT	JENNIFER K. JOHNSTON	TIMOTHY T. GARDNER, JR.
BEVERLY J. BONNING	MICHAEL D. GRISENS	MATTHEW F. HISER	RYAN J. NICHOLSON	ROBERT J. ROBINSON (OF COUNSEL)
MARTHA J. MARCERO	CHRISTOPHER J. IAMARINO	KARI S. COSTANZA	BRANDON C. WALKER	KEVIN S. HARTY (OF COUNSEL)
LISA L. SWEM	RAYMOND M. DAVIS	ROBERT A. DIETZEL	FREDRIC G. HEIDEMANN	Traverse City
JEFFREY J. SOLES	MICHELE R. EADDY	ERIC D. DELAPORTE	DANIEL R. MARTIN	

KEVIN S. HARTY (OF COUNSEL)  
(231) 421-8880  
kharty@thrunlaw.com

November 23, 2015

Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
Attorney at Law  
125 Park Street, Suite 100  
Traverse City, Michigan 49684

*Via e-mail and First Class Mail*  
*jdjenkinsonlaw@gmail.com*

**Re: Bellaire Public Schools: Bullying Complaint**

Dear Mr. Jenkinson:

This letter is in response to your communications of June 18, 2015 and August 19, 2015 alleging that named employees and agents of Bellaire Public Schools had violated Board of Education Policy 8260 – Bullying. Because some of those allegations were directed toward Superintendent James Emery, the Board of Education retained the services of Rehmann Corporate Investigative Services to assist in the investigation of this matter. As part of the investigative process, Rehmann conducted several witness interviews, including one involving your clients at which you were also present.

The purpose of this communication is confined to investigative conclusions regarding the bullying allegations.

The prohibition of bullying in Michigan public schools began with Public 241 of 2011 which was subsequently codified as Section 1310b of the Revised School Code.<sup>1</sup>

Under Section 1310b, as it existed at the time of the events under review here, bullying is defined as follows:

(b) “Bullying” means any written, verbal, or physical act, or any electronic communication, that is intended or that a reasonable person would know is likely

<sup>1</sup> Section 1310b was amended by 2014 Public Act 478 which became effective March 31, 2015. On or about August 24, 2015 the Bellaire Public Schools Board of Education amended its bullying policy (Board Policy 8260) to conform to the revised enactment. Because the particular allegations under investigation here occurred prior to March 31, 2015, the standards originally articulated in Section 1310b of the Revised School Code and in the implementing District policy will be used for purposes of the present analysis.

Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
Attorney at Law  
November 23, 2015  
Page 2 of 5

to harm 1 or more pupils either directly or indirectly by doing any of the following:

- (i) Substantially interfering with educational opportunities, benefits, or programs of 1 or more pupils.
- (ii) Adversely affecting the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.
- (iii) Having an actual and substantial detrimental effect on a pupil's physical or mental health.
- (iv) Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

The definition of "bullying" in Board Policy 8260 (prior to its recent amendment) substantially conforms to the above rendition of Section 1310b of the Revised School Code. Specific examples of bullying within the Policy include hitting, kicking, spitting, pushing, other unwelcome physical contact, as well as taunting, malicious teasing, insulting, name calling, or making threats. In the Policy, bullying can also be psychological in the form of spreading rumors, manipulating social relationships, coercion, engaging in social exclusion/shunning, extortion, or intimidation.

Other definitions within Policy 8260 describe the bullying prohibition as encompassing written, physical, verbal, and psychological abuse, including hazing, gestures, comments, threats, or actions to a student, which cause or threaten to cause bodily harm, reasonable fear for personal safety, or "personal degradation."

Accordingly, whatever actions by contractors or staff occurred here that are alleged to constitute "bullying" must fall within one or more of the above definitions.

One of the allegations made against Varsity Volleyball Coach Kelli Fischer is that she made comments to the effect that a number of the students who originally reported for volleyball tryouts in 2014 would not remain on the team by the first game. Investigation revealed that, typically, greater numbers of student athletes participate in tryouts in comparison to the number of athletes who ultimately maintain a position on the team. This occurs not as a result of cuts to the roster made by the coach, but rather is due to the decisions of student athletes to commit or

Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
Attorney at Law  
November 23, 2015  
Page 3 of 5

not to the discipline, rigor and determination that is necessary to participation on any athletic team.

Coach Kelli Fischer did comment to a fellow coach that many of the students reporting for tryouts for the girls' Varsity Volleyball team in 2014 would not be on the team once the season began. There is no evidence that Coach Fischer expressed this to students or engaged in any behavior to create conditions that would prompt students to decide to discontinue their participation on the volleyball team. Her comments (made to a fellow coach) were predicated on her knowledge that the number of athletes normally diminishes between tryouts and the first competitive event. The investigation did not reveal evidence of any actions or behavior by Coach Fischer to create conditions that were so onerous as to discourage or eliminate student athletes from participation on the girls' Varsity Volleyball team, or any behaviors in that context that fall within the above definition of bullying.

Another allegation is that a Varsity Volleyball team member (hereinafter referred to as "Student A") was benched by Coach Fischer because she played quarterback on a powderpuff football team, contrary to Coach Fischer's direction. It is also alleged that a second player (hereinafter referred to as "Student B") who also participated in the powderpuff football activity was not benched by reason of her participation.

The investigation revealed that Coach Fischer did not have a blanket prohibition against Varsity Volleyball players participating in the powderpuff touch football game. However, Coach Fischer did request that Student A not participate in that game due to a shoulder injury that had prevented Student A from participating in volleyball practice drills. The investigation revealed that Student A experienced some reduced volleyball playing time as a result of her participation in the position of quarterback in the powderpuff football game. However that decision by Coach Fischer does not constitute bullying either under the provisions of Section 1310b of the Revised School Code or under Board of Education Policy 8260.

A third contention in this context involves a claim by another coach (hereinafter referred to as "Coach A") that Athletic Director Brad Fischer effectively prevented Coach A's daughter from participating on an external travel volleyball team at the same time when Coach A's daughter was a member of the Jr. Varsity basketball team coached by Julie Goodwin, who is Athletic Director Fischer's sister. The investigation revealed that Athletic Director Fischer stated to Coach A that his daughter would need to obtain permission from her in-season coach (i.e., Ms. Goodwin) to concurrently participate in JV Basketball and travel volleyball. Athletic Director Fischer indicates that his concern in this context emanated from the fact that Coach A served as a coach for Bellaire Public Schools and, therefore, could only accompany his daughter to the



Mr. Jason D. Jenkinson, Esq.

**JASON D. JENKINSON, PLLC**

Attorney at Law

November 23, 2015

Page 4 of 5

external travel volleyball competition as a “parent,” owing to the regulations of the Michigan High School Athletic Association.

Coach A indicates that his daughter did not start in the JV basketball game immediately subsequent to the above events, but acknowledges that she did play in that contest.

Dissatisfied with Athletic Director Fischer’s direction in the above matter, Coach A requested to meet with Superintendent Emery. An initial meeting on this subject involving Coach A, Superintendent Emery, and Principal Poel confirmed the existence of the prohibition. Coach A made two or more requests to meet on this topic in December 2014 and in January 2015, with no response from Superintendent Emery. Eventually, another meeting was convened to review this issue. At that time the administration reiterated that the underlying concern was that Coach A, due to his identity as a coach for the School District, could be perceived or viewed as violating MHSAA rules by accompanying a student athlete (here, his daughter) to an external competitive athletic event.

It is determined that the foregoing actions of Athletic Director Fischer and Superintendent Emery do not constitute bullying within the scope of the prohibition either under Section 1310b of the Revised School Code, or under Board of Education Policy 8260 – Bullying.

Another area of concern raised in your correspondence is that the District’s administration has failed to investigate and process other bullying complaints, specifically those against Athletic Director Brad Fischer.

In your June 18, 2015 Freedom of Information Act (“FOIA”) request made to the District, you requested all written complaints made against the Athletic Director for the past three years. The District’s response to your FOIA request provided documentation of a complaint against Athletic Director Fischer. In order to comply with the requirements of the Family Educational Rights and Privacy Act and its regulations, the name of the family that initiated the complaint (and the identity of the student) was redacted from the documentation furnished to you. Your August 19, 2015 correspondence asserts that there was “absolutely no action taken in any capacity” by the Superintendent to investigate or process that complaint.

Your assumption in that regard is mistaken. Documentary materials pertaining to the processing and disposition of that complaint were not provided to you because they were not within the scope of your FOIA request for the complaint, in distinction to documents relating to the investigation and disposition of that complaint. In fact, Superintendent Emery promptly processed the complaint in question and conducted at least two meetings with the parents who lodged the complaint. Because your August 19, 2015 communication (p. 3, ¶ 2) identifies a named family in the context of this complaint, the District cannot release more specific



Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
Attorney at Law  
November 23, 2015  
Page 5 of 5

information to you regarding the subject matter and disposition of the complaint without the written consent of those complainants. See, 34 CFR 99.1 *et seq.*

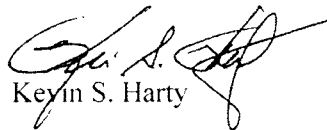
Accordingly, the contention that the District's administration failed to investigate a prior bullying complaint against the Athletic Director is determined not to be substantiated.

The investigation did not substantiate your clients' more generalized claim that the familial relationships that have existed and that continue to exist within the District's Athletic Department have resulted in any form of bullying. Moreover, the investigation did not reveal any evidence of actions or communications by or among any members of the Athletic Department, including those having familial relationships, that fall within the scope of the bullying prohibition, as defined by the Revised School Code and District Policy 8260 - Bullying.

While it is respectfully recognized that your clients are dissatisfied with certain decisions and actions of Athletic Director Brad Fischer, Coach Kelli Fischer, and Superintendent Emery, the investigation did not substantiate that the conduct of any of those individuals toward either your clients' daughter or toward any other students violated either Section 1310b of the Revised School Code or District Policy 8260 - Bullying.

Very truly yours,

THRUN LAW FIRM, P.C.



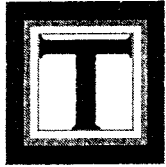
Keyin S. Hart

KSH/clb

c: Board of Education, Bellaire Public Schools  
Mr. James R. Emery, Superintendent of Schools, Bellaire Public Schools  
Brad Fischer  
Kelli Fischer

01165238.docx





# THRUN

LAW FIRM, P.C.

U.S. Mail Address:  
 P.O. BOX 2575  
 EAST LANSING, MI 48826-6386  
 PHONE: (517) 484-8000  
 FAX: (517) 484-0041  
 FAX: (517) 484-0081

ALL OTHER SHIPPING:  
 2900 WEST ROAD, SUITE 400  
 EAST LANSING, MI 48823-6386

MICHAEL B. FARRELL  
 GORDON W. VAN WIEREN, JR.  
 BEVERLY J. BONNING  
 MARTHA J. MARCERO  
 LISA L. SWEM  
 JEFFREY J. SOLES

ROY H. HENLEY  
 ROBERT G. HUBER  
 MICHAEL P. GRIESENS  
 CHRISTOPHER J. IAMARINO  
 RAYMOND M. DAVIS  
 MICHELE R. EADDY

KIRK G. HERALD  
 MARGARET M. HACKETT  
 MATTHEW F. HISER  
 KARI S. COSTANZA  
 ROBERT A. DIETZEL  
 ERIC D. DELAPORTE

DAVID M. REVORE  
 JENNIFER K. JOHNSTON  
 RYAN J. NICHOLSON  
 BRANDON C. WALKER  
 FREDRIC G. HEIDEMANN  
 DANIEL R. MARTIN

KATHERINE WOLF BROADDUS  
 TIMOTHY T. GARDNER, JR.  
 ROBERT J. ROBINSON (OF COUNSEL)  
 KEVIN S. HARTY (OF COUNSEL)  
 Traverse City

KEVIN S. HARTY (OF COUNSEL)  
 (231) 421-8880  
 kharty@thrunlaw.com

November 23, 2015

Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
 Attorney at Law  
 125 Park Street, Suite 100  
 Traverse City, Michigan 49684

*Via e-mail and First Class Mail*  
[jdjenkinsonlaw@gmail.com](mailto:jdjenkinsonlaw@gmail.com)

**Re: Bellaire Public Schools: Nepotism Policy**

Dear Mr. Jenkinson:

As you are aware, Bellaire Public Schools (the "District") has been investigating the allegations set forth in your letters of June 18, 2015 and August 19, 2015. In that regard, the Board of Education retained Rehmann Corporate Investigative Services to assist in conducting the investigation. The investigative process has included review of relevant documentation and several witness interviews, including an interview of your clients at which you were present.

The purpose of this communication is confined to investigative conclusions regarding compliance with the District's nepotism policy.

Policy 5235 – Nepotism was adopted by the Bellaire Public Schools Board of Education on December 10, 2003 and became effective on that date. Policy 5235 prohibits any District employee from being "... placed in a position in which he/she would be in a direct supervisory relationship with a member of his/her immediate family." "Immediate family" is defined to include father, mother, brother, sister, son, daughter, son-in-law, daughter-in-law, brother-in-law, sister-in-law and, for purposes of supervision, husband and wife.

Your clients originally raised questions of whether the District's Athletic Department was in compliance with Policy 5235 – Nepotism in the aftermath of a disagreement over whether or not your clients' daughter would be permitted to move from the Varsity to Jr. Varsity level of volleyball competition. The compliance issues raised by your clients (i.e., Athletic Director supervising immediate family members within the definition of Policy 5235) stem from pre-existing conditions, including an interval where one of your clients served as a member of the Bellaire Public Schools Board of Education. While your clients disclaim that their concerns over compliance with the nepotism policy are unrelated to their dissatisfaction with Athletic Department decisions regarding their daughter, the confluence of these



Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
Attorney at Law  
November 23, 2015  
Page 2 of 4

events is undeniable. Regardless, the District agrees that it is responsible for following its own policies and believes that recent modifications to Policy 5235 provide a practical and sustainable framework for prospectively addressing the underlying policy objectives.

The Board of Education discussed modification to Policy 5235 at a meeting on March 23, 2015. Subsequently, the Policy was modified by action of the Board of Education taken at its meeting of April 27, 2015.

The impetus of the modification to Policy 5235 was to alter the structure of supervision so that an employee will not be reporting to any other employee who is either their spouse, or who is a relative of the first or second degree. Further, Policy 5235-R declares that any panel member of a school district appellate body who is a spouse (or relative of the first or second degree) of either the person bringing the complaint or the person who is the subject of the complaint, must recuse themselves from the appeal panel in all respects regarding any discussion or decision made on that appeal. This prohibition also extends to bodies within the school district that act in a supervisory or regulatory capacity.

The District began implementing Policy 5235-R immediately after its adoption. For example, Athletic Director Fisher did not evaluate his brother-in-law (Rob Goodwin) subsequent to the modification of the Policy. Any relatives of the Athletic Director employed in the Athletic Department will be evaluated either by Superintendent Emery or by Principal Kristi Poel. Specifically, Ms. Poel will evaluate Coach Kelli Fisher in the 2015-2016 program year. This supervisory structure in the volleyball program was conveyed and explained to student athletes and parent/guardians at the beginning of the current season.

Within the context of Michigan employment law, a “supervisor” is:

... any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical nature, but requires the use of independent judgment.

*See, Michigan Ed Ass'n v Clare-Gladwin Intermediate Sch Dist*, 153 Mich 792, 795 (1986); *Mecosta Co Bd of Comm'rs v Council 25*, AFSCME, 166 Mich App 374 (1988); *Faust Pub Library v AFSCME Council 25*, \_\_\_\_\_ Mich App \_\_\_\_\_; 2015 WL4486729 (July 23, 2015).

Whether or not Athletic Director Fisher was in fact performing functions within the above definition of a “supervisor” prior to the recent amendment of the District’s nepotism policy, there will be no prospective lack of clarity as supervisory responsibilities now have been structured in the manner described above.



Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
Attorney at Law  
November 23, 2015  
Page 3 of 4

With respect to other allegations made by your clients in this context, the investigation did not substantiate the assertion that the Athletic Director exercised any frequent or meaningful degree of control over the varsity coach regarding the selection of players to participate in volleyball contests.

Your clients also maintain that the movement of the Athletic Director's niece (and another student athlete) from the Jr. Varsity to the Varsity Volleyball team in the 2014-2015 season was attributable to non-compliance with the District's nepotism policy. The allegation that the Athletic Director was involved in that decision was not substantiated. The Varsity Volleyball Coach indicates that she decided to move the two players in question from Jr. Varsity based on team needs, and because both players were worthy of advancement. This also enabled the Varsity and Jr. Varsity Volleyball teams to numerically balance their rosters.

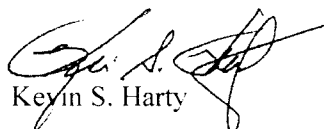
The related concern expressed by your clients that the Athletic Director and his spouse, the Varsity Volleyball Coach, collaborated in the determination that your clients' daughter would not be permitted to move back to the Jr. Varsity team is also not substantiated.

There is no evidence that the Athletic Director either solicited or received any input from the Varsity Volleyball Coach regarding whether or not the two players in question should be able to transition back from the Varsity to Jr. Varsity team. Significantly, the Varsity Volleyball Coach did not participate in the deliberations of the Athletic Council which voted not to permit the two athletes in question to return to the JV team. After the Athletic Director communicated that decision to your clients, they responded that their daughter would not be at the upcoming Varsity game or at team photos later that same day. Importantly, neither player was excluded from membership on the Varsity team, but rather chose to discontinue their participation on the team.

In summary, once your clients brought into question the issue of the District's compliance with Policy 5235 – Nepotism, prompt steps were taken by the Board of Education to review and modify the Policy through restructuring the exercise of supervisory authority. However, any degree of prior non-compliance with the District's nepotism policy was not the causative factor in either the decision of the Varsity Volleyball Coach in 2014 to move two Jr. Varsity players to the Varsity team, or in the subsequent decision of the Athletic Director and the Athletic Council to deny the request of your clients that their daughter (and one other student athlete) be permitted to return to the Jr. Varsity team.

Very truly yours,

THRUN LAW FIRM, P.C.

  
Keyin S. Harty

KSH/clb

c: Board of Education, Bellaire Public Schools



Mr. Jason D. Jenkinson, Esq.  
**JASON D. JENKINSON, PLLC**  
Attorney at Law  
November 23, 2015  
Page 4 of 4

Mr. James R. Emery, Superintendent of Schools, Bellaire Public Schools  
Brad Fischer  
Kelli Fischer

01165203.docx