

150 Spruce Street
Princeton, NJ 08542
April 9, 2018

via email track@princetonac.org

Stephen Cochrane, Superintendent via email super@princetonk12.org
Princeton Public Schools
25 Valley Road
Princeton, NJ 08540

Dear Mr. Cochrane,

This letter comes to you as an appeal from a decision rendered by Stephanie Kennedy in regard of the use of track and field equipment. It is the next step in the resolution process described by Princeton Public Schools (PPS) Board of Education Policy 9130. This policy specifies your response within ten business days.

This kind of disagreement admits solutions where everybody wins.

I will reiterate my goal here, as stated in the notes I distributed at the March 19, 2018 facilities committee meeting:¹

I would like to use the track and field facility at Princeton High School to conduct community track and field meets. I want to have the broadest range of events, open to the widest range of ages and abilities, as practicable to do in a safe, fun, fair manner.

As stated there, use of track and field equipment at zero additional fee is instrumental to this goal and also reasonable based on PPS policy, PPS practice and the practice of other districts in New Jersey. Use of the press box at the Princeton High School Stadium on reasonable terms should be allowed. For example, use of the press box was free on request prior to June 23, 2015.

The opening paragraph of Policy 7510 provides the basic justification for all of this:

The Princeton Board of Education believes that our school buildings and properties, are designed to offer a full educational program to the children of this community, are a vital asset and should be available for use, whenever possible, by the community to encourage and enhance the quality of education and lifelong learning.

This is supported by Policy 7520, clause 1:

The Board may lend specific equipment to the municipality or other recognized nonprofit community groups (including but not limited to Princeton Public Library, Princeton Education Foundation, PTO's and Booster Clubs) only when written permission has been sought by such a group and approved by authorized district personnel.

I now review

- how this appeal is properly before you;
- the practicality of allowing this use; (PPS already leaves most, but not all, equipment exposed to the weather and the public. Right now, PPS takes all the risk and nobody benefits.)
- the philosophical argument that athletics is a part of education and lifelong learning;
- additional details on Policy 7510 and Policy 7520;
- the balance between policy articulated by Board of Education and practical course pursued by PPS staff. The documentation is necessarily extensive. There is confusion both within the general public and among PPS staff.

How this appeal is properly before you

The complaint about inability to resolve the terms of use of track and field equipment was presented, in an email of March 16, 2018, to board members Dafna Kendal (Kendal hereafter), William Hare, and you, with specific reference to Policy 9130, requesting an attempt at informal resolution. The email is included in a longer chain running from February 23, 2018 to April 3, 2018, oldest at bottom.ⁱⁱ The February 23 entry in the email chain reviews the basic proposal in terms similar to the notes for the March 19 facilities committee meeting.

Paragraph 2 of Policy 9130 specifies that the superintendent shall review the complaint according to established procedures.

Kendal indicated that the public session of the March 19 facilities committee meeting would be a proper forum for discussion.

The committee meeting happened on March 19. After the meeting, no one volunteered a response.

I requested a response on March 26 at approximately 1:30 PM. Stephanie Kennedy (Kennedy hereafter) replied within minutes. In the immediate exchange, there was a difference of interpretation of Policy 7520 between Kennedy and me.

All others present for PPS at the March 19 meeting have remained silent.

Kennedy did not raise any objection at the March 19 meeting on the basis of her interpretation of Policy 7520. Kennedy was briefed on my reliance on Policy 7520 prior to the March 19 meeting and provided with hard copy of my notes at the meeting.

Kennedy's deputy, Gary Weisman (hereafter Weisman), had been briefed on my reliance on Policy 7520 as early as January 4, 2017.ⁱⁱⁱ Weisman was present at the March 19 meeting. Weisman raised no objection.

The totality of the circumstances and record support a good faith belief that Kennedy's objection is rooted in an incorrect interpretation of Policy 7520, expressed only after the March 19 meeting.

Therefore, a resolution could, in part, take the form of better guidance on Policy 7520.

The next step specified by Policy 9130 is a written statement directed to you as superintendent.

Practicality of allowing this use

The practicalities were reviewed before the facilities committee, Kennedy, and Weisman as far back as November 16, 2015.^{iv}

Much of the equipment desired to be used is left out for months. This can be verified by photographic evidence, or just by walking out to the track in the springtime. Staff time required to facilitate the use of equipment left out anyway is zero. PPS bears no particular increased risk to equipment that is left unsecured and exposed to the weather. Leaving equipment out like this appears to be standard practice at many track and field facilities. The equipment is designed for outdoor use.

Certain items, such as the high jump crossbar, are retained in secured storage. There are various methods of providing access, ranging from depositing a key in a lockbox to having a staff person on site for at least some part of the activity.

Risk to all equipment is mitigated by an insurance policy obtained through USA Track and Field. This was reviewed in detail at the March 19 meeting.

Due to the nature of the proposed use, for example, inviting people to the premises specifically to do high jump, the availability of equipment cannot be left to chance.

Even if everything wished for here is granted in full, the financial outlook for the events is poor, and that is fine. The meets are planned to lose money. Princeton Athletic Club subsidizes the meets using the proceeds of other activities at other sites. Track and field is part of the core mission of Princeton Athletic Club.

Athletics is a part of education and lifelong learning

Athletics is a part of the educational program. This has been obvious at least as far back as Aristotle.

Princeton Athletic Club provides an opportunity, possibly the unique opportunity, in Princeton for primary age children to participate in competition in track and field. Princeton Athletic Club provides an opportunity in Princeton for adults to participate in competition in track and field. Princeton Athletic Club provides additional opportunities for intermediate and high school age children to participate in competition in track and field. Specifically, Princeton Athletic Club provided an opportunity desired by the Princeton High School (PHS) track team coaches, for PHS track team members to train for national competition by conducting an event at PHS.

Therefore, Princeton Athletic Club encourages and enhances the quality of education and lifelong learning.

Under this reasoning, Policy 7510 and Policy 7520, in their plain meanings, permit the requested use. If necessary to an enduring resolution, Board of Education may entertain a relevant special use agreement within Policy 7510 as it stands.

Additional details on Policy 7510 and 7520

A point of contention is the meaning of Policy 7520, clause 1, shown in the introduction to this note. Kennedy suggests in an email of March 26 that nonprofit community group means organization dedicated to serving youth. Kennedy writes further “we do not ‘rent’ equipment to outside groups.”

Here, I note again the special attention Princeton Athletic Club has given to serving youth within its track and field activities. This attention includes the purchase of specialized equipment designed for the use of children and the hiring of qualified officials to assure a safe, positive experience for all children.

Regardless, Kennedy's statement is contradicted by information on the PPS facilities web site.

The PPS facilities web site for Community Organizations use shows:^v

Community organizations are non-profit organizations with a physical address within the Municipality of Princeton. A copy of your 501(C) tax exempt status letter or certification is required.

This definition closely follows the text of Policy 7510. Princeton Adult School is one of the organizations specifically enumerated both on that web page and within Policy 7510.

The PPS facilities web site relevant to use of the Performing Arts Center shows music stands and chairs are loaned at no charge; pianos are rented to non-profit and for-profit organizations.^{vi}

Balancing policy and practice

Here, I review the contradictions in practice that have shown up over the years. It has gotten to the level where it is not possible for staff to predict whether their decisions will be supported. A member of the public cannot rely on the accuracy of apparently officially posted information.

I conducted track and field events in Spring 2015. I arranged for the use of tables and chairs, as shown by an email between me and then-Athletic Director John Miranda.^{vii} Kennedy was copied on this email. I also arranged for use of the press box and PA system, which includes a simple push-to-talk microphone.

For the June 4, 2015 and June 11, 2015 events, tables, chairs, and use of the press box were provided as arranged. There were handshake emails directly preceding the events.^{viii ix} The provision of tables and chairs

was coordinated by Peter Vasquez, as I had been instructed.

For the June 25, 2015 event, Weisman prohibited use of tables and chairs and effectively prohibited use of the press box by announcing an instant new supervision requirement.^x A practical solution – maintain status quo for an imminent event, and sort out perfect practice later – was rejected.^{xi}

Consequent to the June 2015 track and field events, I submitted a proposal for revised policy to the facilities committee, through Weisman.^{xii} This was considered at the November 16, 2015 meeting. I received a response from Weisman on November 19, 2015, indicating the committee had rejected my request.^{xiii} Although I did not realize it at the time, the referenced Policy 7520 was amended on November 17, 2015, independent of any action by me. Policy 7510 was also amended as of that date.

As of November 19, 2015, I considered the matter settled.

I conducted track and field events at Princeton High School in June of 2016. I did not request any equipment. It so happened that tables and chairs were available on site.

Princeton Township Recreation conducted a youth track and field camp in July 2016.

On January 4, 2017, I contacted Weisman asking for renewed consideration for Princeton Athletic Club to use equipment.^{xiv} This was on the basis of the change in Policy 7520 and the fact of the Princeton Township Recreation program. The fact of the Princeton Township Recreation program indicated to me that the amended Policy 7520 had allowed an evolution in practice since Weisman's letter of November 19, 2015. Weisman promptly acknowledged receipt, but there was no further response for months.

In the early part of 2017, Princeton Cranbury Track Club, a non-community organization based outside of Princeton, advertised a youth track and field program to take place at Princeton High School, using PPS equipment. Princeton Cranbury Track Club was operated by select Princeton High School track coaches.

Following up with Weisman in September, 2017, I received an acknowledgment from Weisman and then a reply on October 24.^{xv} This reply was copied to Brian Dzbenski (Dzbenski hereafter):

Sorry for the delay, but after conferring with our Athletic Director, Brian Dzbenski, our decision is to not allow any outside organization use any of the track and field related equipment due to the potential for damage.

Shortly thereafter, I visited Dzbenski. I noted the apparent contradiction between Weisman's October 24 note with practice, specifically that the pole vault apparatus remained installed at least July through October. It was installed for a youth track program in July, which I believe to have been the Princeton Township Recreation program.

Dzbenski followed up with me in early December, 2017, copying Peggy Thompson.^{xvi}

You will be able to rent the track and use the equipment. I know I am working with the board office and to update the Fee Schedule. Things are moving along. Please contact Peggy next week and hopefully everything will be updated so that you can complete your application.

On the basis of Dzbenski's message, I believed that Dzbenski and relevant staff at the board office had sorted everything. Peggy Thompson followed up, approximately at New Years, indicating that the new fee schedule was posted.

The new fee schedule contained an unusual \$1000 fee for community organizations to use track and field equipment.^{xvii} The fee was notably absent from the non-community chart, although that page did contemplate that non-community organizations might conduct track meets.^{xviii} The \$1000 fee was anomalous and unreasonable. It defied comparison with anything else on the community fee schedule.

On January 2, I made another visit to Dzbenski. He was incredulous when I told him the fees. When I showed him, he remarked that that was not what he had agreed to. I wrote to Peggy Thompson asking for confirmation, or alternatively to confirm that the posted fees were in error. I received no answer.

I got no response in followup from Dzbenski until March 14. On March 14, I emailed him and left a telephone message asking for a response. The March 14 response is unusual for its non-answer to the basic question.^{xix} I asked for a statement of the fee structure. The final reply from Dzbenski indicated a pending web site update, due for March 16 according to the email, that still has not happened.

We now come to the facilities committee meeting of March 19, and the associated email chain.^{xx}

In the followup to the meeting, Kennedy adopted a position opposite from Dzbenski: no equipment would be available as, in her opinion, it contravened an unspecified policy. We then had the specific disagreement on Policy 7520 reviewed above.

The course seems to be: Dzbenski and Weisman disagreed on conditions of use, then apparently came to an agreement after further consultation. Dzbenski and Thompson advised that a fee schedule was being developed. The fee schedule posted contained an outlandish fee for track and field equipment. Nobody at PPS would answer directly on the contents of the fee schedule. Kennedy denied it was ever a thing.

Summary

As shown above, the proposed use of track and field equipment for community track and field events is practical, in the sense of low risk and low cost to PPS, beneficial to the community and aligned with Board of Education goals as articulated in Policy 7510, and within the parameters set by Policy 7520.

The evidence shows confusion among staff as to the meaning and application of these policies.

For these reasons, I would appreciate your clarification that the meaning of Policy 7520 is the plain language meaning. Princeton Athletic Club is a nonprofit community group. Policy 7520 permits nonprofit community groups to borrow specific equipment.

I would also appreciate your statement that the proposed activity meets the objective set forth in Policy 7510 in the way that track and field facilities and equipment are uniquely suited, namely, conducting the sport of track and field.

I would appreciate your instruction that the proposed activity be permitted on terms that facilitate, not frustrate, its accomplishment.

Thank you for your consideration.

Lawren Smithline

- i <http://princetonac.org/wp-content/uploads/2018/04/facilities-committee-notes-2018-03-19.pdf>
- ii <http://princetonac.org/wp-content/uploads/2018/04/fac-committee-email-2018-04-03.pdf>
- iii <http://princetonac.org/wp-content/uploads/2018/04/smithline-weisman-january-4-2017.pdf>
- iv <http://princetonac.org/wp-content/uploads/2018/03/track-facilities-2015-10-21.pdf>
- v <http://princetonac.org/wp-content/uploads/2018/04/CommunityOrgPPS-2018-03-27.pdf>
- vi <http://princetonac.org/wp-content/uploads/2018/04/PHSAuditorium-PPS-2018-03-27.pdf>
- vii <http://princetonac.org/wp-content/uploads/2018/04/smithline-miranda-2015-02-20.pdf>
- viii <http://princetonac.org/wp-content/uploads/2018/04/smithline-vazquez-2015-05-27.pdf>
- ix <http://princetonac.org/wp-content/uploads/2018/04/smithline-vazquez-2015-06-11.pdf>
- x <http://princetonac.org/wp-content/uploads/2018/04/tables-6232015A.pdf>
- xi <http://princetonac.org/wp-content/uploads/2018/04/tables-6232015B.pdf>
- xii See note iv.
- xiii <http://princetonac.org/wp-content/uploads/2018/04/pps-fac-2015-11-19.png>
- xiv See note iii.
- xv <http://princetonac.org/wp-content/uploads/2018/04/smithline-weisman-october-24-2017.pdf>
- xvi <http://princetonac.org/wp-content/uploads/2018/04/smithline-dzbenki-december-5-2017.pdf>
- xvii <http://princetonac.org/wp-content/uploads/2018/03/CommunityOrgFees-12-2017-highlighted.pdf>
- xviii <http://princetonac.org/wp-content/uploads/2018/03/Non-CommunityOrgFees-12-2017-highlighted.pdf>
- xix <http://princetonac.org/wp-content/uploads/2018/04/smithline-dzbenki-2018-03-14.pdf>
- xx See note ii.