

Protect The Hersheys' Children, Inc.

P.O. Box 153, Lafayette Hill, PA 19444 • 717-312-8900 • info@protecthersheychildren.org



August 6, 2009

Hon. Tom Corbett
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Re: MHS President Selection Travesty

General Corbett:

We write to express our great disappointment at your having enabled the shocking and objectionable manner in which the Milton Hershey School (MHS) Board selected discredited former board member Dr. Anthony C. Colistra as the next MHS President. This selection is a travesty underscoring the hopelessly flawed nature of the MHS Board and again illustrating the imperative for immediate and sweeping board overhaul. No one with even a shred of integrity can claim that this choice represents positive change for MHS or that the manner in which the selection was made could have been even conceivably proper.

Among other things, we want to know how the MHS Board could possibly claim to have conducted a “*nationwide search*” and nonetheless settled on Dr. Colistra? Does the board truly expect caring observers to believe that it interviewed the finest residential childcare professionals from across the nation, droves of whom would have been thrilled to lead MHS and who were also superbly qualified to do so? If we are to accept this claim, then let the MHS Board make known which *national caliber residential childcare leaders* were interviewed, because we cannot believe that genuine interviews were conducted. How could they have been, given this result?

Knowing what the potential applicant pool is, and knowing also Dr. Colistra’s deeply troubling history, it’s simply inconceivable that first-rate residential childcare leaders were genuinely interviewed. Even mediocre candidates would have surpassed Dr. Colistra in qualifications to lead MHS, while the top residential childcare leaders would have towered over him in any credible selection process –just as they would have towered over Mr. O’Brien six years ago, when the earlier sham “*nationwide search*” was also orchestrated before naming O’Brien as the MHS President. It is patently clear that the MHS Board’s non-child agendas *once again* drove this decision –agendas that should have long since been removed from the equation. Given the Hershey Trust’s \$6 billion in resources and its concomitant ability to hire the world’s *very best* residential childcare leaders, why have MHS children once again been cheated like this?

We say this, obviously, because of Dr. Colistra’s utterly dubious track record, his virtually non-existent *residential childcare* qualifications, and his string of demonstrably poor policy decisions, all of which are well known.

We remind you that this is the same Dr. Colistra who:

- Served on the 2002 MHS Board when *BusinessWeek* magazine included the board among the **worst managers in the country!**
- Endorsed in 1999 the absurd representations to the Orphans' Court that the MHS Trust's purpose had "failed," that MHS "could not serve additional needy children," and that, accordingly, the Hershey Trust should have been permitted to divert money to *constructing a research institute* in addition to *giving away* land assets belonging to needy children!
- Supported wholly improper "prep school" enrollment policies that rejected the neediest children in favor of children deemed "better college material" –and this while smearing those who sought to challenge these policies, even after Dr. Colistra was confronted with irrefutable evidence on the matter! (See, e.g., Dr. Colistra's 2001 letter to the *Patriot-News*, wherein he dissembles about the actual income levels of MHS enrollees and accuses critics of "infecting the public with false information" –although the critics' statements were 100% accurate. Conversely, in the same letter, Dr. Colistra attempted to give the utterly false impression that MHS enrollees came from families with average annual incomes of \$5,292. The latter claim was blatantly misleading, of course, and is a revealing illustration of how Dr. Colistra has consistently conducted himself; i.e., in this instance, he worked to advance "prep school" enrollment policies when this was popular with the MHS Board but then sprinted to the front of the serve-needier-children parade when doing that became expedient to keeping his board seat.)
- Permitted the unconscionable and child-endangering "multi-age housing" policies that ultimately led one of your own subordinates to declare, "We know that the hours between 10 PM and 6 AM pass very slowly for some of these kids."
- Endorsed the regime of Dr. William L. Lepley right to the bitter end, declaring Lepley to be the "finest leader in MHS history" and publicly misrepresenting the manner in which he was released.
- Supported the decision to sell the Hershey Trust's controlling interest in the Hershey Company, declaring this to be a matter of fiduciary duty, and then cravenly caved in to public pressure and reversed his position on the matter solely to keep his MHS Board seat!
- Supported the hiring of now removed MHS President O'Brien notwithstanding having information about Mr. O'Brien that was not publicly known and that would have led a prudent trustee to reject his candidacy *out of hand* –information relating to credential falsification, lack of *bona fide* residential childcare leadership experience, and questionable acts well known to Dr. Colistra.
- Supported the shredding of the July 31, 2002 governance Reform Agreement thereby freeing himself and his fellow board members to enrich themselves in a manner unthinkable at virtually any other childcare charity.
- Supported the blatantly child-harming 40-child "Springboard Academy" intake facility –a reckless experiment that squandered **\$40,000,000** in childcare funds and recklessly crowded children into **20-child bedrooms** in contravention of everything learned in the last 100 years of residential childcare. This indefensible initiative was undertaken while Dr. Colistra *chaired* the MHS Board and thus is undoubtedly Dr. Colistra's responsibility. It also rivaled in child-endangerment the retrograde multi-age housing policy introduced under Dr. Lepley, at a time **when Dr. Colistra also served on the MHS Board**, thus making Dr. Colistra responsible for **both** of these outrageous decisions. Dr. Colistra's support for these repugnant initiatives, standing alone, should have automatically disqualified from any consideration at all.
- Permitted years of bullying, fiscal waste, cronyism, and other indefensible practices under former President O'Brien and his senior leadership team, the result of which is a poisoned MHS climate among employees and alumni alike that will take years to ameliorate.

- Supported such outrageous resource expenditures as the purchase of a failing luxury golf course with MHS childcare money –a course frequented by MHS Board members while being off limits to MHS children!
- Supported the increased crowding of children in MHS student homes in a manner that flagrantly disregarded MHS Board promises, trampled the recommendations of the Blue Ribbon Task Force, ignored the advice of several generations of MHS staff psychologists, and breached *under-oath representations* made in Orphans’ Court proceedings by the MHS Board.

Time and again, on issues of child-crowding, diversion of childcare resources to non-child interests, self-enrichment by MHS Board members, policy flip-flopping, harmful childcare practices, incompetent MHS leadership hiring, shocking conduct by MHS administrators, and fiscally imprudent asset management, Dr. Colistra has consistently demonstrated a total refusal to stand up for needy children along with the willingness to endorse whatever policy happened to be temporarily popular with the MHS Board, no matter how objectionable from the perspective of residential childcare or asset management standards.

From the CHILD *cy pres* (1999) and multi-age housing (2000) to the hiring of Mr. O’Brien (2003) and 20-child bedrooms (2005), Dr. Colistra has voted in *every* instance in favor of his own personal interests and his own survival on the MHS or related boards, disfavoring the interests of needy children. The common theme is invariably what is best for Dr. Colistra at the moment, by virtue of which he has careened from one outrageous stunt (CHILD) to another (the proposed sale of the Hershey Company), from one indefensible childcare experiment (multi-age housing) to the next (20-child bedrooms), and from one abysmal MHS Administration (Dr. Lepley’s) to another (Mr. O’Brien’s), while conforming his board votes to whatever happened to be personally expedient at the moment.

To be clear, it is by no means that Dr. Colistra is personally disagreeable or dislikeable. On the contrary, it is that needy children require a champion willing to oppose bad decisions even when this is unpopular or personally against self-interest. Dr. Colistra has demonstrated no such characteristics. We challenge you, General Corbett, to identify even one MHS Board policy mistake over the last ten years that Dr. Colistra opposed out of concern for needy children. We know of none –though there were numerous instances where Dr. Colistra compromised children’s rights to advance his own personal goals. Dr. Colistra is not a residential childcare leader who has demonstrated the courage, self-sacrifice, and residential childcare acumen necessary to lead MHS. Rather, he has shown himself willing to compromise children’s interests, support reckless childcare policy, and profit exorbitantly from this charity –his Hershey Trust compensation for FY 2006-2008 *alone*, according to the IRS Form 990, totaled **\$710,757** for his *part-time* board work! All across Pennsylvania, devoted childcare agencies struggle to cut costs and find themselves forced to say “no” to desperately needy families. Meanwhile, Dr. Colistra’s decisions have led directly to his unseemly self-enrichment at the expense of a childcare charity.

In sum, Dr. Colistra has already caused such damage to this childcare charity that he should be barred from any further MHS role, rather than being rewarded with a position where he can inflict more harm.

It is little wonder that the MHS Board breached its transparency promises, conducted its entire “search” behind closed doors, turned away meaningful participation in the candidate-identification or candidate-interview process, barred the candidates (assuming there were any!) from meeting faculty and houseparents in advance of the decision, shielded the entire procedure from scrutiny, and then foisted this absurd “selection” on MHS in a manner that confirmed the most cynical predictions; i.e., that the process would be a total charade intended to anoint a predetermined candidate deemed malleable to advancing the MHS Board’s non-child agendas, and this due to Dr. Colistra’s *proven record* in this category. The sham, orchestrated, and utterly hollow nature of the entire selection process would be blatantly obvious even to a five-year-old-child.

While the above critique is not exhaustive, it is more than sufficient to illustrate what a *farce* the selection of Dr. Colistra is –and this without even quoting to you what was said about him by current MHS Vice-President Peter Gurt or, apparently, former President O’Brien, which quotes are contained in our prior correspondence to you warning of this impending debacle.

You ignored our warnings.

Accordingly, General Corbett, this decision is *entirely your responsibility* –as is the related waste of Pennsylvania taxpayers’ money, the harm to needy children, and the abuse of MHS frontline care-providers that now surely will be perpetuated. This outrageous “decision” means the continuation of the disastrous policies that have made the Hershey Trust a travesty among childcare charities and a profligate waster of resources –*all on your watch*.

Any doubts that might have remained about your duty to secure MHS governance reforms have now been removed. Hershey Trust failures are undeniable at *every* level, from reckless child-endangering experiments and indefensible infrastructure waste to certified amateurism in all ranks of the MHS leadership. (For a plethora of irrefutable background material supporting this point, please see the various papers, studies, and essays generated by PHC and available on our website at: <http://www.protecthersheychildren.org>.)

Pursuant to your own successful arguments before the Pennsylvania State Supreme Court, it is now your obligation, as Attorney General, to take corrective measures *at the MHS Board level*. Hershey Trust governance must be brought into conformity with charitable trust norms and the board’s duties tailored to the *residential childcare* purpose of the Trust, to the exclusion of *all* competing and conflicting duties. Virtually *every* charitable trust governance expert in the nation who has examined this matter concurs on this point. (See, e.g., Evelyn Brody, “Whose Public? Parochialism and Paternalism in State Charity Law Enforcement,” 79 Indiana Law Journal 937, (2004); see, also, Jonathan Klick, “Agency Costs, Charitable Trusts, and Corporate Control: Evidence from the Hershey’s Kiss-Off,” Harvard Law and Economics Discussion Paper No. 593, Columbia Law Review, Vol. 108, No. 4, 2008.) Even your own subordinates should agree with this, particularly in light of this latest flabbergasting decision.

It is time for you, too, General Corbett, to get with the governance reform program of your subordinates and the rest of the nation, joining those who believe that needy children are entitled to have decisions made on their behalf by trustees with undivided loyalties and who possess proper childcare qualifications. Because of your inaction to date, what should be our nation’s greatest savior of needy children has now taken another giant leap, *backwards*. Needy children, MHS frontline care-providers, and Pennsylvania taxpayers deserve far better.

Sincerely,
Protect The Hersheys’ Children, Inc.

Ric Fouad
MHS Alumnus

Kenneth O. Brady
MHS Alumni Service Award 1988

Kenneth D. Beasley, PhD, PE
MHS Alumnus

Harry Chalmers
MHS Alumnus

Linda Gunderson Remsburg
Concerned PA Citizen

George W. Cave
Alumnus of the Year 2001

Robert A. Chalmers
MHS Alumnus