

To: [REDACTED]  
From: Mr. John Allison *JAA*  
Date: April 30, 2021  
Re: Report of the Decision-Maker

### ALLEGATIONS AND APPLICABLE POLICY(S)

In a complaint filed with the school district ("District") on December 2, 2020, [REDACTED] ("Complainant") filed a formal complaint against Mr. Rich Wilson ("Respondent"), alleging sexual harassment under the District's Sexual Harassment Policy GAAC and/or discrimination on the basis of sex/gender under the District's Complaints Policy KN. In summary, the Respondent was alleged to have engaged in the following conduct:

On November 18, 2020, the Respondent "belittled" the Complainant "with his stern voice and hand motion... and stood in my doorway for what felt like an eternity staring at me with his arms crossed."

In December, 2019, the Respondent told the Complainant to "stay out of my lane" after the Complainant shared the inappropriateness of his touching her on the leg and making inappropriate comments.

In December, 2019, the Respondent told her supervisor, Dr. Brent Yeager how difficult it was for her to work with the Complainant after he had touched her. Dr. Yeager asked her if she thought the Complainant was joking. She said, "Would your wife think it was funny for you to touch another woman." Dr. Yeager said, "No." The Respondent further stated that it is not appropriate for a man to talk about being in bed with his wife. Those are not appropriate conversations. Dr. Yeager agreed.

In November, 2019, the Complainant sat very close to the Respondent and placed his hand on her upper thigh.

On October 23, 2019, the Complainant texted the Respondent regarding a work related question. The next day he stood in her office and said that when he received her text back he was in bed with his wife, and she was not happy the Respondent was texting him.

Additional, repeated incidents that:

- The Respondent referred to the Respondent as his "work wife";
- The Respondent said, "You remind me of my wife";
- The Respondent said how nice the Complainant looked as he stared at her; and
- Ongoing incidents between December 2019 and November 2020 that make having an office next to the Respondent uncomfortable for the Complainant and trying to work with him feel "impossible", at times.

## **PROCEDURAL STEPS TAKEN**

### **Formal Complaint and Notice of Formal Complaint**

Complainant filed the formal complaint on December 2, 2020, with the District's Title IX Coordinator John Hutchison ("Coordinator").

Upon receipt of the formal complaint, the Coordinator provided notice electronically on December 5, 2020, to Complainant and Respondent. The email included (1) a copy of the district's policy on sexual harassment, Board Policy GAAC, indicating the grievance process to be followed; (2) a written notice of the allegations, (3) a statement that the Respondent was presumed not responsible for the alleged conduct and that a determination regarding responsibility would be made at the conclusion of the grievance process; (4) a statement that the parties may have an advisor of their choice who may inspect and review evidence; (5) a statement that the district prohibits retaliation or discrimination against any person for opposing discrimination, including harassment; for participating in the complaint process; or making a complaint, testifying, assisting, or participating in any investigation, proceeding or appeal; (6) a notice of the support measures to be put in place immediately; (7) and notification that Dr. Lachelle Sigg ("Investigator") would serve as the Investigator in this matter, assisted by Mr. Tim Reves, and Mr. John Allison ("Decision-Maker") would serve as the Decision-Maker.

On January 6, 2021, the Coordinator notified the parties of a change in supportive measures.

### **Selection of Investigator and Overall Investigation Approach**

Upon receipt of this formal complaint, the district contacted Investigator on November 30, 2020, to conduct an investigation under Board Policy GAAC. Mr. Tim Reves was also contacted and asked to assist the Investigator. Both determined that they did not have a conflict of interest or a bias against Complainant or Respondent generally or against the Complainant or Respondent.

Upon receiving the formal complaint, Mr. Reves and the Investigator immediately scheduled a personal interview with the Complainant. Again, in accordance with Board Policy GAAC, she was offered the opportunity to bring representation with her to this interview. The Complainant noted that Mr. H.J. Heistand, NEA Uniserv Director, would be in attendance and serve as her representative. The Complainant requested to meet via Zoom and an appointment was sent on December 7, 2020 for the scheduled interview on December 9, 2020. The Complainant, Mr. H.J. Heistand, Mr. Tim Reves and the Investigator met via Zoom to conduct the interview on December 9<sup>th</sup>. Dr. Brent Yeager was identified as an additional witness by the Complainant. The Respondent was interviewed and offered an opportunity to share his response to each allegation made by the Complainant. Through this interview, the Respondent noted additional witnesses, including other staff members that he supervises, Ms. Kim Dahl-Social Studies Curriculum Coordinator, Ms. Nicole Atencio-Assessment Manager, Ms. Julie Miller-Science Curriculum Coordinator and Ms. Barb Gonzalez-CTE Coordinator. Each of these individuals were also interviewed by Mr. Reves and the Investigator. Their respective insight is included within the report.

Per Board Policy GAAC, the Complainant and Respondent were provided the investigation summary report for review and response for the Investigator's consideration. The Complainant and Respondent were provided this report on Thursday, January 14, 2021, and advised that they had the opportunity to

submit a response by the end of the day, Friday, January 29, 2021. The Complainant and Respondent submitted items for consideration on Friday, January 29, 2021. After receiving feedback from each, the Investigators considered these responses, and the report was adjusted accordingly. More specifically, the Complainant requested that Ms. Jill Beckman, Dr. Tina Ellsworth and Mrs. Angela Epps be interviewed as part of the investigation. The Investigators interviewed each of these three individuals and have included their insights within the report. All interviews were held via Zoom and began with a review of Board Policy GAAC.

On February 17, 2021, the Investigator sent the investigation report to both parties and their advisors in electronic format. The Investigator also provided the Decision-Maker a copy of the report that same day. The investigation report fairly summarized the relevant evidence. The Investigator conducted an objective evaluation of the relevant evidence and made credibility determinations that were not based on the person's status as Complainant, Respondent, or witness.

After receipt of the investigative report and before reaching a determination regarding responsibility, the Decision-Maker afforded each party the opportunity to submit written, relevant questions that the party wanted asked of any party or witness. In this respect, on March 5, 2021, the Decision-Maker informed both parties electronically that each party had until March 12, 2021, to submit written questions.

On March 12, 2021, the Complainant sent to the Decision-Maker twenty-five questions for the Respondent, fifteen questions for Ms. Kim Dahl, an interviewee, six-questions for Dr. Tina Ellsworth, an interviewee, twelve questions for Mrs. Jill Beckman, an interviewee, and thirteen questions for Dr. Brent Yeager, an interviewee. On March 26<sup>th</sup>, the Complainant requested, electronically, that the Decision-Maker disregard the thirteen-questions submitted to be posed to Dr. Brent Yeager. The Decision-Maker requested that the Coordinator forward all remaining, submitted questions to the appropriate parties on March 26, 2021. The Coordinator did so on March 26, 2021, indicating that all responses were due by noon Friday, April 2. On March 30<sup>th</sup>, the Coordinator received responses from Dr. Tina Ellsworth for all questions posed to her. Both the Respondent and Mrs. Jill Beckman notified the Coordinator that they did not intend to respond to the questions by the noon deadline. On April 5, 2021, the Complainant and Respondent were provided the responses from Dr. Tina Ellsworth, electronically, and that no responses were received from the other parties.

#### **Findings of Fact and Applicable Policies and/or Conduct Rules**

Based on my objective evaluation of all relevant evidence, including the questions and answers provided by the parties during the decision-making process, and based on my credibility determinations that were not based on the person's status, I have made the following findings of fact:

On November 18, 2020, the Respondent "belittled" the Complainant "with his stern voice and hand motion... and stood in my doorway for what felt like an eternity staring at me with his arms crossed." Based upon the interviews, I find this action did occur.

In December, 2019, the Respondent told the Complainant to "stay out of my lane" after the Complainant shared the inappropriateness of his touching her on the leg and making inappropriate comments and discussed working together. The Respondent does not remember this conversation occurring but reported there were various meetings and conversations

regarding their working relationship. Based upon the interviews, I believe the statement was made regarding their collaborative working relationship.

In December, 2019, the Respondent told her supervisor, Dr. Yeager, how difficult it was for her to work with the Complainant after he had touched her. Dr. Yeager asked her if she thought the Complainant was joking. She said, "Would your wife think it was funny for you to touch another woman." Dr. Yeager said, "No." The Respondent further stated that it is not appropriate for a man to talk about being in bed with his wife. Those are not appropriate conversations. Dr. Yeager agreed. Based upon the interviews, I find that this conversation did occur.

In November, 2019, the Complainant sat very close to the Respondent and placed this hand on her upper thigh. Based upon the interviews, I find that the Respondent did touch the Complainant on the thigh.

On October 23, 2019, the Complainant texted the Respondent regarding a work related question. The next day he stood in her office and said that when he received her text back he was in bed with his wife, and she was not happy the Respondent was texting him. Based upon the interviews, I find the statement was made.

Additional, repeated incidents that:

- The Respondent referred to the Respondent as his "work wife";
- The Respondent said, "You remind me of my wife";
- The Respondent said how nice the Complainant looked as he stared at her; and
- Ongoing incidents between December 2019 and November 2020 that make having an office next to the Respondent uncomfortable for the Complainant and trying to work with him feel "impossible", at times.

Based upon the interviews, I find the statements were made.

While all but the November 2020 incident and potentially some of the "repeated" comments made by the Respondent, for which a timeline has not been substantiated, have been reported beyond the 180 days allowed under Board Policies GAAC and KN, to determine whether these actions establish a basis for ongoing behavior, they were investigated and included in my review.

#### **Determination Regarding Responsibility, Rationale Therefore and Disciplinary Sanctions**

The District's Title IX Sexual Harassment policy (GAAC) states sexual harassment shall include conduct on the basis of sex involving one or more of the following: (1) A district employee conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcomed sexual conduct; (2) unwelcomed conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's educational program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking.

Board Policy GAAC further states that sexual harassment may result from verbal or physical conduct or written or graphic material. Sexual harassment may include but is not limited to: verbal harassment or abuse of a sexual nature; pressure for sexual activity; repeated remarks to a person with sexual or demeaning implication; unwelcome touching; or suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning an employee's job status.

Finally, Board Policy GAAC indicates that complaints received will be investigated to determine whether, under the totality of the circumstances, the alleged behavior constitutes sexual harassment under the definition outlined above. Unacceptable conduct may or may not constitute sexual harassment, depending on the nature of the conduct and its severity, pervasiveness, and persistence. Behaviors which are unacceptable but do not constitute harassment may also result in employee discipline.

The District's Complaints policy (KN) states that discrimination against any individual on the basis of race, color, ethnicity, national origin, sex, disability, age, religion, sexual orientation or gender identity in the admission or access to, or treatment or employment in the District's programs and activities is prohibited. Harassment of an individual on any of these grounds is also prohibited.

This complaint centers around five main actions by the Respondent that are alleged to be discriminatory: (1) that he belittled the Complainant with his "stern voice and hand motion...", (2) he told the Complainant to "stay out of his lane", (3) he said he was in bed with his wife while texting the Complainant, (4) he touched the Complainant on the thigh, and (5) has used descriptors such as "work wife", indicated to the Respondent that she reminds him of his wife, and has commented on the Complainant's appearances. With regards to the touching of the Complainant's thigh, while potentially meeting the definition of harassment, the incident occurred prior to 180 days from the date of the filing of the complaint and has not proven to be the pervasive, nor the basis of ongoing behavior, and therefore I do not believe constitutes sexual harassment under Board Policy GAAC. While I consider the other comments and behaviors to be unprofessional, none would rise to the level of comments that a reasonable person would find so severe, pervasive, and objectively offensive to deny the Complainant equal access to District programs or activities, and therefore, do not constitute sexual harassment/discrimination.

Based upon the preponderance of the evidence, although the actions of and comments by the Respondent were unprofessional, I do not find him responsible for conduct that violates the District's Sexual Harassment policy (GAAC) nor discrimination under the district's Complaint Policy (KN); however, I do find that the Respondent has violated the Staff Guiding Principle of Respect for All as outlined in the District's policy on Expectations of Licensed/Certified Personnel, Board Policy GBA.

As a result, I am recommending that the Respondent participate in a sensitivity training designed to make him more aware of how to be more professional, through Guin Mundorf, LLC. In addition, I recommend a letter of reprimand be placed in the Respondent's personnel file.

#### **Process for Appeal**

The Complainant or Respondent may appeal this decision as permitted by Board Policy GAAC, which includes a requirement that either party must file an appeal within twenty (20) days of this written determination. An appeal may be based upon any of the following: (1) a procedural irregularity that affected the outcomes; (2) new evidence that was not reasonably available at the time that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias against either party that affected the outcome.