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San Francisco

April 10, 2023

VIA EMAIL

Barry J. Bennett
The Bennett Law Office
5132 North Palm Avenue #300
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Re: Disclosure of Records in Public Records Request

Dear Mr. Bennett:

I am writing you on behalf of the Carmel Unified School District ("District") to inform you that the District has received a California Public Records Act ("CPRA") request that implicates records related to your client, Jon Lyons. Specifically, the District received the following request:

Can I please have a copy of all complaints related to Mr [Lyons], disciplinary records, and investigation reports for the last 5 years. He holds a high level position and the public has a right to know.

The District has located disclosable records responsive to this request. The records are enclosed. At this time, the District plans to disclose the records as redacted.

Your client has the option to obtain a court order to prevent the disclosure of these records. *See Marken v. Santa Monica-Malibu Unified School District (2012) 202 Cal.App. 4th 1250.* If he decides that he will not be taking such legal action, please let the District know as soon as possible. If we do not hear from your client by 4:00 pm on April 20, the District will move forward and disclose the redacted records to the requester the following day.

Please reach out to me if you have any questions or concerns.

Sincerely,

DANNIS WOLIVER KELLEY

William B. Tunick

Enclosure

cc: Jessica Hull, Chief Communication Officer, Carmel USD

DWK 4010231v2

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CONFIDENTIAL MEMORANDUM

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CONFIDENTIAL ATTORNEY CLIENT PRIVILEGE

TO: Mr. Craig Chavez
Chief Human Resources Officer
Carmel Unified School District
4380 Carmel Valley Road
Carmel-By-The-Sea, CA 93923

FROM: Barbara J. Vrankovich

DATE: February 23, 2023

RE: Carmel High School Principal Jon Lyon's Handling of Allegations of Possible Student Sexual Harassment Incident

This investigation was conducted at the request of District Chief Human Resources Officer, Mr. Craig Chavez, regarding concerns that Principal Lyons may not have followed established District procedures to investigate a complaint regarding possible student-to-student sexual harassment. In early December, Superintendent Dr. Ted Knight had received an email from a parent expressing concerns that "Student █" was bullying "Student █." Dr. Knight forwarded the email to district level administrators in Student Services and Special Education to obtain more information about the matter.

On December █, 2022, a meeting was held at Carmel High School to address recent concerns regarding Student █'s behavior and prepare for an upcoming Individualized Educational Program (I.E.P.) meeting for Student █. The December █ meeting was attended by Director of Student Services, Dr. Cassandra Ziskind, Director of Special Education, Dr. Steve Gonzalez, Board Certified Behavior Analyst, █, Carmel High School Assistant Principal, Ms. Deborah Puente, and Resource Specialist, █. Mr. Lyons attended the meeting briefly, and some comments that he made regarding an incident involving Student █ and Student █ that had occurred approximately two months earlier raised concerns for Dr. Ziskind, Dr. Gonzalez, and █ that Mr. Lyons had not followed established procedures to investigate what had occurred. Following the December █ meeting, Dr. Ziskind, Dr. Gonzalez, and █ met with Mr. Chavez regarding their concerns about Mr. Lyons. Mr. Chavez reported these concerns to the Superintendent who placed Mr. Lyons on a paid administrative leave of absence pending completion of the investigation.

Process of Investigation

The investigation included interviews of Dr. Ziskind, Dr. Gonzalez, █, Ms. Puente, █ and Mr. Lyons, accompanied by his attorney, regarding the December █, 2022, meeting. Assistant Principal, Craig Tuana, P.E. Teacher █, Health Aide, █ and School Resources Officer, Kevin Gross were also interviewed regarding their knowledge of the two students involved.

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Interviews Regarding the December █████ 2022 Meeting

Dr. Ziskind stated that the meeting at Carmel High School on December █████ 2022, lasted approximately one-hour and fifteen minutes during which Mr. Lyons was present for approximately twenty minutes. The purpose of the meeting was to review Student █'s current academic performance and behavior at school, gather information about what interventions had been implemented for Student █, and identify what next steps needed to be taken to address his recent behavior regarding Student █ as well as a "pushing incident" with his former girlfriend. When the incident involving Student █ was raised, Ms. Puente, █████ asked Mr. Lyons to come into the meeting because he had handled that incident in her absence.

Mr. Lyons stated that he came into the meeting at Ms. Puente's request and was present for twenty minutes "if that" to address one specific question, that of the incident between Student █ and Student █ that had occurred in the █████ in the school year. Mr. Lyons stated that he was on his way to a meeting toward the end of the day when he saw Student █ in the hallway visibly upset. Mr. Lyons asked Student █ what was wrong. Student █ became more upset, so Mr. Lyons and Student █ stepped into a nearby office that was empty. Student █ then reported that during the █████ Student █ had approached him and said something like, "My friend over there has a big dick. You should get some." Mr. Lyons stated that he and Student █ then engaged in a discussion along the following lines:

- Mr. Lyons asked Student █ what they could do to make this better, to which Student █ responded that he just wants it to stop.
- Mr. Lyons asked Student █ if this was a pattern. Student █ responded that Student █ makes comments, but when asked for examples, Student █ could not provide any.
- Student █ asked, "Is this sexual harassment?"
- Mr. Lyons responded that he was not sure it rose to the level of sexual harassment.
- Mr. Lyons asked if Student █ had reported this incident to the teacher, and Student T responded "yes."
- Mr. Lyons stated that he attempted to provide some options to Student █ asking if █████, but these ideas were "non-starters."
- Mr. Lyons stated that Student █████ so he suggested that Student █ could drop the class. Student █ said no.
- Student █ said that he wanted Student █ out of the class.
- Mr. Lyons asked if Student █ wanted him to call his mother. Student █ said no.
- Mr. Lyons asked if Student █ wanted to participate in a conflict resolution session with Student █ Student █ said no.

Mr. Lyons stated that after this interaction with Student █, he left to go to the meeting he was attending and never heard from Student █ again. █████
█████. Sometime in mid-November Student █ made some social media posts focused on his reasons for █████
█████ which included the interaction with Mr. Lyons described above.

During the meeting and in his interview, Mr. Lyons stated that he did not believe that Student █'s behavior constituted sexual harassment or bullying. When asked during his

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interview how he reached this conclusion, Mr. Lyons responded that based upon his interpretation of the requirements for sexual harassment, it was not pervasive or repetitive. When asked whether Student █'s conduct interfered with Student █'s ability to attend class, effectively denying Student █ equal access to his education program, which is another element of sexual harassment under Title IX, Mr. Lyons responded that Student █ had █. Mr. Lyons stated that in his professional opinion this one instance had not caused Student █'s █.

Ms. Puente, █, stated that Mr. Lyons did not investigate the incident between Student █ and Student █, did not document the incident in Aeries, the District's student management database, and did not inform her of what had occurred. Ms. Puente stated that she only found out about this incident when she was "digging around" for information for the December █ meeting to prepare for Student █'s upcoming I.E.P. meeting.

Several in attendance at the December █ meeting expressed concerns about comments that Mr. Lyons made about Student █. Two of Mr. Lyons' comments stood out for those in attendance.

Mr. Lyons first comment was related to Student █'s statement to Mr. Lyons that he did not want to participate in a conflict resolution process with Student █. Mr. Lyons stated in the meeting that he felt that there should have been a meeting between Student █ and Student █ but since Student █ did not want to do so, "that was that." Some felt that Mr. Lyons was dismissing this incident between the students and ignoring the potential future problems between the two students. Mr. Lyons stated that he meant that was "the end of the conversation for now" but not the end of the matter.

Mr. Lyons' second comment that this incident was "█ boys acting like █ boys" elicited a strong reaction from everyone in attendance at the meeting. It was described as "atrocious given this day and age," "appalling," "dismissive," and "insensitive." When asked about this during his interview, Mr. Lyons responded that it was possible that he had said that.

Other Interviews

Interviews of Assistant Principal, Craig Tuana, P.E. Teacher █ Health Aide, █ and School Resources Officer, Kevin Gross all validated the complexities involved in dealing with both Student █ and Student █. █ stated that Student █ had not reported this incident regarding Student █ to him nor did Mr. Lyons bring it to his attention. Mr. Tuana recalled a brief discussion after social media posts regarding the incident between Student █ and Student █ were made whether the incident involving Student █ and Student █ in the █ constituted sexual harassment under Title IX which concluded with Mr. Lyons stating that it didn't seem to be sexual harassment to him.

Analysis and Conclusions

The issue in this investigation is whether Mr. Lyons followed established procedures to investigate conduct between students that may constitute sexual harassment. An

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important question to be addressed is the degree of training that Mr. Lyons had received regarding the Title IX procedures that were to be used when such matters arose.

Megan Farrell of Title IX Consult LLC conducted two (2) hour-long trainings for all district and site administrators; the first was held on November 2, 2021 and the second was held on August 30, 2022. In addition, Ms. Farrell conducted a thirty (30) minute training on May 20, 2022, for the two (2) administrators who would be serving as summer school principals. Mr. Lyons was the high school summer school principal that year and attended the thirty (30) minute training.

Mr. Lyons attended the trainings on both November 2, 2021, and August 30, 2022. The materials for these trainings were quite extensive and included a detailed Powerpoint presentation that addressed Title IX requirements and the investigative process, forms to be used when completing an investigation, and a flow chart to guide administrators through the investigation process. Digital copies of all of these documents were provided to all administrators following the presentations on November 2, 2021, and August 30, 2022. In addition to the training described above, Dr. Knight who serves as the District's Title IX Coordinator, sends regular reminders and bulletins to all administrative staff regarding the importance of contacting him regarding any incident that could constitute sexual harassment.

Considering the extensive nature of these trainings and Dr. Knight's routine reminders to administrative staff to report potential Title IX matters to him, Mr. Lyons handling of the Student █ and Student █ issue was not the result of a lack of training regarding the procedures to be followed. It appears, instead, to be either a lack of understanding of what constitutes sexual harassment itself or an inability, at least in this instance, to slow down, step back, investigate what had occurred, and arrive at a conclusion that is based on the information gathered during the investigation. Mr. Lyons also has two assistant principals who have been trained in Title IX investigation procedures, and if the demands of his position made conducting a thorough investigation difficult, he could have delegated the investigation to either Mr. Tuana or Ms. Puente.

Based on the information obtained during this investigation, Mr. Lyons did not follow established procedures to investigate the incident between Student █ and Student █.