

Dear Board President Gattenby,

Attached are the violations that I am requesting you to investigate concerning the conduct of Director Berg. I have given this to you at the board meeting so that they are documented in the meeting minutes. I request you to respond to me prior to the last board meeting in May. Please contact me for documentation should you not have it.

#### **Alleged Violation I.**

Director Berg has disrespected me in public and has denied me due process, right to free speech, and confidentiality. Every district employee has the right to have any allegations against him or she addressed in private. This "board referral form" is a thinly veiled attempt to publicly harass and embarrass me in a public venue. Exactly what are the alleged offenses he is talking about. No one has talked to me or presented them to me. Where is my right to know what my accusers are being told? In addition, this being done in public is a breach of confidentiality. This appears to relate to the email we all received from Mr. Greg Wall previously that alleges misconduct of me, and tells our board members to use board procedures and policies in efforts to take disciplinary action against me. It also appears to be blatant retaliation for my comments regarding:

- My testimony during a Port Orchard City Council Meeting pertaining to the SKSD 2021 Levy which is addressed in SKSD Board Policy 1201.
- Mr. Austin for his comments regarding Mr. Mann and myself.
- Mr. Austin was in violation of the board and district policy regarding inappropriate comments and slandering another individual.
- Mr. Berg was speaking for the board (I did not authorize him to contact Mr. Austin) when he talked with Mr. Austin regarding his inappropriate comments regarding the Larry Mann matter.
- Mr. Berg had no authority to reprimand Mr. Austin, as the board did not discuss the issue.

#### **Alleged Violation II.**

Director Berg has been unethical as he has used the board referral form for personal reasons and is a violation of our board policy (GP-12). Board policy (GP-12) has no procedure such as the one in the board referral form. He made this up. This divides the board 4 to 1 against me with no one to be a neutral person. The top of the form says we want to respond to alleged allegations. The middle part describes the possible actions including no action be taken. The end says the outcome is to censure Director Daily. Exactly how is this not a kangaroo court with a pre-determined outcome?

#### **Alleged Violation III.**

GP-12 has not been followed. Where is my unofficial "discussion" with the board chairman? When was this accomplished and documented? While we made some comments during an executive session, that was not the focus of the session. You were upset that my comment the PDC complaint involving you was "witness tampering". The other board members had no idea what this was about unless you told them in advance, which would be a violation of the Open Public Meetings Act.

#### **Alleged Violation IV.**

Director Berg has committed both Nonfeasance and Misfeasance. Director Berg has willfully impugned, maligned and damaged my reputation and character. He is aware of, or should be of the consequences of his actions in doing this. He is not just "proposing" something with no thought as to the long-term consequences. Any director who does not **act to** stop such misfeasance also commits nonfeasance when failing to act to correct these discriminatory and harmful acts.

#### **Alleged Violation V.**

Violations of the Open Public Meeting Act. Director Berg has corresponded numerous times with Mr. Mann and the board. His thinly veiled comments such as "I recommend..." or "but do what you want" are intended to plant a seed in the other board director's minds. He may be corresponding with other director's one-on-one, which is a defacto open

public meetings act violation. Clearly, his intent is to get around the open public meeting act to conduct illegitimate and possibly illegal acts. These actions bring into question both the legitimacy and appropriate conduct of our board.

In addition, why did Director Berg singularly determine the "teams" listed on this board referral form? Did he bother to confer with those directors he assigned to the 'teams' prior to putting their names down? Did he give any thought to what the long-term consequences could be from his actions?

#### **Alleged Violation VI.**

It appears that Director Berg is in violation of our conduct policy regarding treatment of all individuals. I direct you to review Superintendent Winter's "Message to Community" dated April 8, 2021. Clearly the district policies espoused by Superintendent Winter are not reflected in Mr. Berg's actions. Mr. Winter states in part: "The South Kitsap School District strives to provide students with optimal conditions for learning by maintaining a school environment where everyone is treated with respect and no one is physically or emotionally harmed". He further states: "The school community includes all students, school employees, *school board members*, contractors, unpaid volunteers, families, patrons, and other visitors".

In the case of Mr. Mann, regardless of his previous record, he still retains his full set of rights. He is not under any restraining orders or other societal restrictions. He is free as is any other person to do as they wish, regardless of what people might think about him. I urged the board twice to establish criteria that would eliminate this type of problem. Given board policy, district policy, and Mr. Winter's recent letter regarding hate crimes, this is exactly the issue that will surface. It is blatant discrimination for the board to say Mr. Mann cannot be on a committee without providing the rationale for his non-selection. Mr. Mann may well have grounds for civil litigation at both state and federal levels.

#### **Allegation Violation VII.**

In Mr. Berg's board referral form dated April 21, 2021 he talks about responding to alleged offences and improprieties he is claiming I have committed, yet lists none. This would imply that Mr. Berg (and other board members) have been discussing this matter amongst themselves outside of the required public meeting forum. These actions by Mr. Berg implies there may be possible collusion in his actions with other board member whether telephonically or otherwise. Such actions between Mr. Berg and other board members which would be a violation of board ethics, board governance policies and district policies.

In conclusion, I am delivering these allegations of violations during a public meeting which makes them public documents. Since I delivered these allegations during a public meeting, you will need to report your findings and actions via an open and public board meeting in the future. It is with great disappointment that Director Berg failed to perform his required due diligence in this matter. On its face, Director Berg's actions appear retaliatory. His intentions are gauged to cause me embarrassment, humiliate me, and to discredit me before this board and our community. Unfortunately Director's Berg's effort will most likely add to our communities' lack of respect for the board as well as further eroding of community trust.

You may contact me for specific emails and other information. I expect you to follow district policy contained in GP-12, and inform me what actions you will and have taken and documented regarding Mr. Berg's actions and behavior.

Cordially,

J Daily