

SKSD Board Investigation

## Appendix B

Privileged & Confidential  
Attorney Work Product  
Attorney-Investigator Communication

## **GENERAL RESPONSE:**

When an elected official is censured, opening the door to removal from office, it is a matter of real gravity. It means that the Board, a body of elected officials whose own power derives solely from the votes of their constituents, has decided to override a democratic election. This should not be done lightly. Such an action must be undertaken only in the case of the gravest and most harmful misconduct. It cannot and should not be done because an elected official is prickly, disagreeable, or uncooperative. Whatever else Director Daily may be, he is the representative selected democratically by a majority of voters.

Director Daily's actions, taken on behalf of his constituents, are not punishable offenses. Many of these allegations do not even contain any violation of policy or law. The high bar for contravening the will of the constituency has not been met. Director Daily should not be censured.

## **I. SUMMARY OF ALLEGATIONS**

### **A. Director Daily has undertaken actions aimed at or with the effect of undermining board decisions.**

On December 2, 2020, the Board adopted Resolution No 1338, authorizing a special election on February 9, 2021 "in order to submit to the qualified electors of the District the proposition of whether excess property taxes should be levied to provide educational programs and operations (hereafter levy)."

#### Evidence:

-Director Daily offered public testimony in opposition to the levy before the Port Orchard City Council on January 26, 2021.

-Director Daily sent emails to constituents that were posted on the Nextdoor app opposing the levy and citing inaccurate data.

**RESPONSE:** The Board decided to authorize a special election. The election is in the form of a question: "...whether excess property taxes should be levied" [emphasis added.] The Board did not decide to endorse a particular result for that election, nor did they resolve to require univocal support of all members for the passage of the levy. Director Daily did not oppose the holding of a special election. His actions do not constitute undermining a decision of the Board.

**B. Director Daily has engaged in threatening, unprofessional, and disrespectful communications with individual board members, community members, and staff.**

Evidence:

-January 12, 2020 Email communications with Board and pre-board meeting notes

-February 17, 2020 pre-board meeting notes to all directors.

-April 13, 2020 pre-board meeting notes to all directors.

“Is this seriously the agenda?”

The superintendent “is our employee; not our best friend.”

“This is a total waste of time”

“I will ask for Ms Farmer’s resignation and her staff at the meeting”

“I will also ask for Mr Holsten’s resignation at the meeting”

If we can’t get [agenda items] fixed by next meeting, I will ask for the resignation of the superintendent at that meeting.”

“I have no problem embarrassing the board, the superintendent, the individual board members and asking for their resignations if you move forward with this item.”

-Email communications with Peter Darragh (parent and SKSD employee)

-Email communications with Troy Grubb (SKSD employee and SEIU 925 Executive Board Member)

-Communications with Director Gattenby (and others) in connection with Public Disclosure Commission (PDC) Case 82098.

A PDC complaint was filed on December 13, 2020, alleging that the Citizens Supporting South Kitsap Schools failed to register as a political committee. Director Gattenby, Superintendent Winter, and union official John Richardson were identified as witnesses. Director Daily sent a letter to Director Gattenby, stating:

I am disappointed. Given your stated character and leadership position, I didn’t think this type of stuff was your style and worth the risk.

Cordially,  
J Daily

Director Gattenby feels the letter was intended to be threatening and constitutes “witness tampering.” It is believed that Director Daily sent the same letter to Superintendent Winters and Mr. Richardson.

-Emails Communications with Director Berg

**RESPONSE:** Criticism of persons or proceedings, even to the point of requesting a resignation in protest of an action, does not inherently constitute ‘disrespect.’ The content of Director Daily’s communications, as cited here, does not include a ‘threat’ by any normal definition thereof. Nor is there anything cited that is ‘disrespectful’ to the point that it should be punishable by censure – there is no name-calling, no personal insults or remarks, no evidence of bias, simply strongly-worded objections to Board and District actions.

The expression of an opinion, and in particular the expression of a critical political opinion, is the right of every citizen under the First Amendment and the duty of every board member. An elected official has a duty to constituents, and a board member has a duty to the health of the organization – not to any one person or policy. If a board member has a good faith belief that an action will harm the District or the constituents, it is that member’s job to question and criticize the action. Director Daily cannot be censured for doing just that.

Director Daily’s duties as an elected official include communicating with constituents. Responding when contacted by a parent or any other community member is not forbidden.

As to the allegation of ‘witness tampering,’ Director Daily categorically denies engaging in any such activity. As is well known Director Daily has many criticisms of Director Gattenby – the letter quoted here (which is undated, and unaccompanied by any statement of when or how it was received) does not refer to any particular issue, does not discuss the complaint or proceeding; does not advocate for any action; and does not in any way constitute ‘witness tampering.’ Director Daily is disappointed with any number of things Director Gattenby has said and done, and this letter does not contain any inappropriate content.

What’s more, the complaint to which Director Gattenby is listed as a witness isn’t even a complaint against Director Daily. There is no allegation that Director Daily violated any rules, only a mention that a news article states Daily was a part of a citizen’s group *before* he was elected to office. This violates no rules – Director Daily is allowed to participate in citizen opposition to a levy, if indeed he did so. The complaint states no such thing.

**C. Director Daily has violated the confidentiality of executive sessions.**

Evidence:

At the April 21, 2021 regular Board meeting, Director Daily stated that the Board had previously discussed a Public Disclosure Commission complaint in executive session.

Director Daily disclosed confidential information regarding a potential real estate transaction to a community member.

RESPONSE: Under the Open Public Meetings Act, the discussion under Executive Session is limited to a narrow set of topics. If the Board entered executive session to discuss Public Disclosure Commission complaints, that would have to be announced with the reason for the session:

RCW 42.30.110(2): “Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded.”

If the purpose was announced, then the fact that the topic of discussion was PDC complaints would already have been public. If it was not announced, or if the reason for excluding the public was not one of the narrow allowable reasons, then the executive session was improperly convened and was not, in fact, an executive session at all, but an illegal exclusion of the public from a meeting of the Board. As PDC complaints do not obviously fit in to any of the allowable reasons for exclusion, it appears that there was no proper executive session.

As to the alleged disclosure of ‘a potential real estate deal,’ this allegation has not been brought with sufficient information to fully respond. Director Daily does not believe that he has ever made such a disclosure, but the allegation fails to indicate what ‘potential deal’ is referred to; to whom the alleged disclosure was made; how the potential disclosure would violate a rule; and what rule such a disclosure might violate.

Further, there was not a stitch of evidence in the provided attachments that even mentioned any real estate transaction. If there is some evidence indicating that Director Daily ever did such a thing, please provide it so that Director Daily may respond.

Lacking any such evidence, it can only be assumed that this allegation is based on empty speculation. If information on a confidential matter somehow got out to the public, then anyone who was privy to that information should be investigated as the potential leak. That would presumably include all the board members, the superintendent, and anyone else who had knowledge of the potential deal. Failing to investigate other potential leaks, and confining the investigation to Director Daily only, would demonstrate impropriety and potential discrimination in the investigation.

Although there is no indication in the allegations of what rule Director Daily is accused of violating, I postulate that the allegation is attempting to gesture toward the stature on Executive Session under the Open Public Meetings Act, under which certain real estate transactions may become confidential. For your convenience, I will cite the Act here:

Executive session is allowed for real estate transactions under the following sections:

**RCW 42.30.110(1)(b):** “To consider the selection of a site or the acquisition of real estate by lease or purchase *when public knowledge regarding such consideration would cause a likelihood of increased price;*” and **RCW 42.30.110(1)(c):** “To consider the minimum price at which real estate will be offered for sale or lease *when public knowledge regarding such consideration would cause a likelihood of decreased price.* However, final action selling or leasing public property shall be taken in a meeting open to the public.” [Emphasis added.]

Please note that an executive session is only properly called when public knowledge of a real estate deal would *cause the likelihood of a price increase/decrease*. Unless that is true, an executive session is not properly called. In order to find that Director Daily violated his obligation to confidentiality, the following would have to be demonstrated:

1. There was an executive session in which a real estate deal was discussed;
2. The executive session was properly called for the purpose of confidentiality to avoid likely price increase/decrease;
3. The executive session was properly announced to the public;
4. At that executive session, Director Daily learned of a real estate deal that he did not already know about;
5. Following that executive session, Director Daily revealed information learned in the executive session to a person who was not in the session.

The allegation and included attachments provide no indication that those findings are possible based on the information provided.

**D. Director Daily's actions reflect poorly on the Board as a whole.**

Evidence:

Thought Exchange Survey – only Director Daily was identified by name.

**RESPONSE:** There is no rule forbidding 'reflecting poorly on the Board as a whole.' The rules require that Board members follow the law and the Board's own policies. There is no policy that says a Board member who is criticized by a member of the public can be censured on the basis of that criticism. Constituents who do not wish to be represented by a Director may vote against that director; or organize their fellows to do the same. Criticism is a healthy part of an open and democratic politics. The fact that two survey respondents disagree with or dislike Director Daily breaks no policy or law.

Further, one of the highlighted comments provided as "Exhibit 1" doesn't even refer to Mr. Daily at all – it could be about any Board member.

We request that this allegation be withdrawn and all investigation on it cease, as it is not an allegation of violation of any rule or law.

**E. Director Daily makes excessive public records requests resulting in unnecessary costs to the District.**

Director Daily has been informed that as a board member, he has the right to request information from the District, but instead he files multiple public records requests, resulting in unnecessary expense to the District.

Evidence:

-April 2020 emails with the superintendent and District staff.

-May 19, 2021 Annual Technology Update. Public records requests have increased 400%. On average each request consumes 6 hours of staff time to respond.

**RESPONSE:** Again, this 'allegation' does not contain anything that would be a violation of law or policy. The Public Records Act makes public records requests a right of all Washingtonians. That right is not forfeit when someone is elected to office

– if anything, the right to access government documents becomes a duty to follow up on any potential government malfeasance. The Public Records Act does not restrict the number of requests that a citizen can make. Like every other Washingtonian, Mr. Daily has every right to make as many records requests as he chooses.

Answering public records request is not an ‘unnecessary expense’ to the district. It is a very necessary, legally required expense. It is also unclear why providing the documents via public records request would be any more expensive than providing the exact same documents via an information request to the District by a board member.

It is very disturbing that the District would seek to restrict or retaliate against Director Daily for his exercise of his rights. Should the District or the Board make a finding that Director Daily ‘made excessive public records requests,’ that would be the basis of a lawsuit for serious willful violation of the Act and retaliation for the use of the Act. **I formally request that the District immediately withdraw and remove all allegations referring to ‘excessive’ public records requests and cease all investigations of any such allegations.**

**F. Director Daily has failed to fulfill the duties and responsibilities of a director.**

Evidence:

Director Daily often refuses to sign board documents.

Director Daily abstained from voting on the election of board president and vice president during the December 2, 2020 regular board meeting.

Director Daily declined a board assignment during the December 2, 2020 regular board meeting (WIAA Representative).

Director Daily failed/refused to attend a special session on January 23, 2021, dedicated to professional development (review and training of “Coherent Governance.”).

Director Daily frequently abstains to avoid going on record or if he believes the agenda includes items that he believes should not be on the agenda.

**RESPONSE:** There is no law or policy requiring signing every board document or accepting every assignment; there is no law or policy forbidding abstention from vote or being absent from a single meeting. There is no stated attendance policy, policy on

acceptance of assignment, nor any policy on abstention in any of the policies cited in this list of allegations. A director cannot be censured for ‘violating’ a policy that does not exist.

**G. Director Daily is divisive, abrasive, and makes accusations of wrongdoing against individual Board members and District staff without offering factual support.**

Evidence:

Claimed there was \$18 Million in unaccounted funds without evidence.

Stated that the District could not pass a State audit.

Claimed the District had approved a 3% across-the-board increase for District staff during the pandemic.

**RESPONSE:**

Director Daily has a fiduciary duty to address any malfeasance that might come to his attention. If he made a good faith evaluation of the finances and found a discrepancy, that should be addressed. Director Daily was fulfilling his duty as a board member when he requested information that would shed light on what he believed to be a major financial problem. If it turns out that his calculation was in error, or there is contradicting information he did not have at the time of his statement, that is not grounds for censure. He was acting in good faith and addressing an issue that could be very serious.

Director Daily’s opinion as a Board member that the District would fail a state audit is not an accusation, but a statement that he believes there are financial problems in the District. The response to potential problems with the District accounting, coming from a Board member, should be to examine those problems, and to find out what, if anything, is going wrong, and then work to fix the system. The response should not be to censure the person who raises a concern.

In the section identified as a meeting transcript in Exhibit 1, Director Daily did not say there was a 3% “across-the-board” raise – Mr. Winter was the one who used that term. Mr. Daily referred to a pay raise “for everybody.” Clearly, this is a colloquialism – Director Daily was not saying there was a 3% raise for every individual person in the world. According to Mr. Winter’s email included in Exhibit 1, there was in fact a 3% raise for SEIU and PSE employees – that is the ‘everybody’ Mr. Daily is referring to, and it appears to be factually correct from the materials in Exhibit 1.

The other 'evidence' provided for this allegation is a screenshot from an anonymous post on a social media website. The anonymous poster claims to be quoting an email from Director Daily – but no such email has been presented or evaluated. Hearsay from an anonymous online post can't possibly be considered sufficient evidence to form the basis of censure.

**CONCLUSION:**

Many of the allegations brought here should be dropped entirely from consideration, because they would not constitute violations of any rule or law, even if true. Those that would constitute violations are insufficiently supported by the evidence provided.

If there is additional evidence of any allegation, please provide that so that Director Daily may respond.

*The responses to these allegations have been prepared by Director Daily's attorney, Sarah Lippek. All communication on this matter should be directed to Ms. Lippek.*

## **RESPONSES OF DIRECTOR DAILY TO JULY 28, 2021 FOLLOW-UP QUESTIONS OF MS. CAPPEL**

### **Follow up questions for Director Daily:**

#### Allegation

A. Director Daily has undertaken actions aimed at or with the effect of undermining board decisions.

#### **Follow up questions:**

1. Did you send the email quoted in the Nextdoor app post that was referenced in the summary of allegations, which states:

“Below is an email I received from Jeff Daily . . . “

RESPONSE:

Presumably, the allegation this question refers to is the one cited in the Summary of Allegations as follows:

“Director Daily has undertaken actions aimed at or with the effect of undermining board decisions.

On December 2, 2020, the Board adopted Resolution No 1338, authorizing a special election on February 9, 2021 “in order to submit to the qualified electors of the District the proposition of whether excess property taxes should be levied to provide educational programs and operations (hereafter levy).”

Director Daily sent emails to constituents that were posted on the Nextdoor app opposing the levy and citing inaccurate data.”

RESPONSE: Director Daily does not use Nextdoor and does not know what it is. He did not post anything to Nextdoor. Anyone could claim that something posted there was ‘sent by Director Daily.’ Director Daily is unable to ascertain from the screenshots provided where the alleged quote begins, and what parts are commentary by the poster. If you can provide any more information about the alleged email – the date/time it was sent; who it was sent to; etc., then Director Daily could potentially answer your question by checking his email archives.

If the allegation is that ‘inaccurate data’ was cited by Director Daily, please specify what data is alleged to be inaccurate, and Director Daily can respond as to whether he recalls citing that particular data, and if so, what his sources for the data may have been.

Director Daily denies ever intentionally using inaccurate data, but cannot eliminate the possibility that he made good-faith assertions based on information he believed to be correct, but that contained some sort of unknown inaccuracy.

If the allegation is that Director Daily ‘undermined’ a decision of the board by stating his thoughts about the levy, please recall that the Board did *not* vote to support the approval of the levy. The board simply voted to call a public vote on the issue of the levy. Director Daily is free to express his opinion on the levy without contradicting any vote of the board.

B. Director Daily has engaged in threatening, unprofessional, and disrespectful communications.

A PDC complaint was filed on December 13, 2020, alleging that Citizens Supporting South Kitsap Schools failed to register as a political committee. Director Gattenby, Superintendent Winter, and union official John Richardson were identified as witnesses. The letter to Director Gattenby stated:

I am disappointed. Given your stated character and leadership position, I didn’t think this type of stuff was your style and worth the risk.

Cordially,

J Daily

**Follow up questions:**

1. Did Director Daily deliver three sealed envelopes to the District offices addressed to the individuals identified above?

Response- Yes, Director Daily delivered three envelopes to the District offices.

2. Did the envelopes contain typed letters?

Response- Yes, the envelopes contained typed letters.

3. Why did you send the letters to Director Gattenby, Superintendent Winter and Mr. Richardson?

Director Daily sent the letters to them specifically because he felt it would be embarrassing to the Board for board members to be roped into something that did not concern the District or the Board, and that would certainly prove to be a false allegation. Director Daily was looking for a response from them, hopefully something that indicated they would not allow local politics to affect their working relationships with Director Daily.

At the time, Director Daily had only been on the board a short period of time, and was just getting to know his colleagues. The false PDC allegations seemed to be someone from outside trying to smear Director Daily’s reputation and undermine the working relationships between board members.

The complaint was written by Gerry Austin, who is in the SKSS organization. For some reason, he sent it to the district and board. The complaint did not involve the District, so it seemed inappropriate to send it to the District.

Director Daily was hoping for an acknowledgement that Director Gattenby, Superintendent Winter, and Mr. Richards really didn’t know they had been named as witnesses in support of the complaint, and that if they had concerns, they would speak with Director Daily directly before

simply filing false complaints. The letter was to let them know that he was aware the complaint and wondered about their involvement.

Director Daily was particularly disappointed to find Director Gattenby's name appended as a witness to the PDC complaint. Director Daily found it disappointing and unprofessional for Director Gattenby to have been involved in this PDC complaint, just in the early days of being colleagues on the Board. That is the disappointment that Director Daily expressed to Director Gattenby. Director Daily was genuinely concerned at the seemingly uncharacteristic attack by Director Gattenby. Nothing whatsoever in the letter was threatening, or intended in any way to interfere with a witness.

The underlying PDC complaint was dismissed as being without merit.

4. What was your intent in stating: "I didn't think this type of stuff was your style and 'worth the risk?'"

Response: In stating "I didn't think this type of stuff was your style," Director Daily was expressing that it seemed uncharacteristic of Director Gattenby to participate in undermining a fellow board member with false allegations. Director Daily was stating that he expected openness and direct communication in his relations with board colleagues, and was surprised that Director Gattenby appeared to be cooperating with a complaint about something he had never mentioned to Director Daily.

In stating that he didn't think "this type of stuff was... 'worth the risk,'" Director Daily was expressing that making false statements, or participating in false complaints designed to undermine a board member, did not seem to be worth the risk of damaging the Board's credibility, or damaging the Director Gattenby's own credibility.

Director Daily sent these as personal communications by hard copy so that his concerns could be handled privately and cause the least public controversy.

When Director Daily spoke with the Superintendent Winter about Mr. Winter's his involvement in the PDC complaint, he said he had only heard about the complaint the night before, and had not given Mr. Austin his permission to use him as a "witness". Mr. Daily expressed his concern that engaging in complaints rather than conversation wasn't a good way to build a working relationship. Superintendent Winter agreed with Director Daily, saying that actions like the PDC complaint are not how he usually works, and that he wanted to build a relationship with Director Daily.

- C. Director Daily has violated the confidentiality of executive sessions.

Attached are communications with Superintendent Winter regarding the disclosure of confidential information following an executive session on May 6, 2020.

**Follow up questions:**

1. Do you agree that information discussed during executive sessions is deemed confidential?

2. As a director, do you agree you are prohibited from disclosing information discussed during executive sessions to members of the public?

*Response-*

Information *learned* (not just discussed) in a properly-convened executive session of a governing body of a public agency is generally confidential. Director Daily agrees with the applicable law.

Executive sessions can only be properly called for a limited number of reasons. Those reasons must be publicly announced prior to the commencement of the session, and the session must be limited to the purposes set forth in statute, RCW 42.30.110(1). For example, the school board might meet in executive session in order to “consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price[.]” RCW 43.30.110(1)(b).

This does not mean that the OPMA imposes a blanket prohibition against disclosing *any and all* information that may have been shared during an executive session. According to the guidance of the Attorney General, “Information that had already been disclosed publicly is not rendered confidential by discussing it in executive session.”

RCW 42.30.110 “only creates a duty of confidentiality with regard to information about the statutorily authorized purpose (or purposes) for convening an executive session.” That is, information discussed that is outside the stated legal purpose of an executive session is not rendered confidential just because executive session privilege is claimed. Any off-topic discussion is not confidential.

Real estate transactions are only confidential in the context of a properly-called executive session, which can take place only when the real estate transaction information under discussion can be expected to result in a price change for the deal in question. General conversation about budget line items, the source of funding for a project, or concerns over whether a project is needed, are not properly subject to executive session confidentiality.

The District's desire to purchase land for an undisclosed reason was documented on a public budget brief/presentation of capital projects proposed under the recently approved capital projects levy. This presentation was given on or about January 30, 2020, by Brent Palmason, who was the facilities and levy project manager at that time.

An expenditure for land amounting to \$1.1 million appeared on this presentation. Below is the slide from that presentation. The slide clearly shows an allocation of \$1.1 million of the capital levy to ‘Purchase additional property for school use.’

No specifics were provided in the presentation, which generated many questions by the public. These questions were under discussion long before the executive session was held. It was common knowledge in the district and among citizens that the district planned to go into a partnership to buy land to build a student health clinic in cooperation with Peninsula Health Care Services.

## Capital Levy Projects

### Capital Improvements - Continued

Projects	Estimated Cost	Notes
New Outdoor Tracks for Marcus Whitman and John Sedgwick	\$1,500,000	Replace cinder running tracks with new rubber tracks
Acquisition of Property	\$1,100,000	Purchase of additional property for school use

Information that Director Daily heard in public, or from sources outside of the executive session, is not confidential information. Director Daily is well-connected in the local community, and this real estate transaction was public knowledge.

The Board cannot discuss information that is already public in an executive session and thereby deem it confidential, or claim that it then cannot be discussed with people who were already aware of the information. That is not the intent of the Open Public Meetings Act.

In order to show that Director Daily actually did reveal confidential real estate transaction information learned in executive session, the following would have to be demonstrated:

1. The information was truly confidential, and had not been discussed, announced, or leaked to the public prior to the executive session.
2. The executive session was properly called, for a legal reason, including a showing that discussing the real estate transaction at the public meeting was likely to cause a price change for the deal.
3. The subject matter of the executive session was properly announced prior to the beginning of the session.
4. The session was not ended or rendered improper by off-topic discussion.
5. Director Daily was the source of a leak of confidential information learned during the session.; and
6. The information was not known to Director Daily's interlocutors before he revealed it to them.

The meeting in question appears to have been an improper use of an executive session, as it was at this meeting when President Gattenby broached the public disclosure complaint. The PDC complaint had not been noted as a topic for this executive session. The PDC matter tainted the entire executive session. The privilege that is attached to a proper executive session was thus nullified. Additionally, the land purchase plan was well known throughout the district and many in the community long before the executive session. This was not confidential information, and it was not protected by the executive session privilege.

3. As a director, do you believe you have the personal discretion to decide whether information discussed during an executive session is confidential?

*Response:* It is the duty of every director, including Director Daily, to comply with the plain written language of the Open Public Meetings Act. 'Personal discretion' is not required, as the decisions of

each director can and should be governed by the statute and the case law associated with the statute. It is important to keep in mind that the purpose of the Act is to prevent government agencies from concealing public information.

Further – this question is objectionably leading, and does not reflect a neutral investigation.

4. Did you disclose information discussed at the May 6, 2020 executive session to a party not in attendance at that executive session?

Response-

As the information discussed at the session was already known to Director Daily and to many other people, due to their separate involvement with the district and outside agencies, it was not confidential.

At worst, Director Daily only reiterated his thoughts on non-confidential subjects that had previously been discussed with the same people weeks before. These discussions related to the item on the district's slide involving monies slated for real estate, and that was of concern to some individuals. This conversation started back in February. The discussions did not involve anything that may have damaged a real estate transaction. They did not involve specific locations, sellers, or any other details.

There was only one item of information that Director Daily did learn at that executive session. He has never disclosed to anyone since he had not heard it from other sources.

Director Daily wrote to the Superintendent with the intent was to show that he understood the Superintendent's concern. As a new board member, Director Daily's desire was to learn to work with the superintendent, not to defend himself. If there was an issue with confidentiality of executive sessions, it should have been handled with the procedure in the Board's own policies: With a private conversation to correct the issue. Such a conversation never took place. It has been more than a year since the session in question.

- G. Director Daily is divisive, abrasive, and makes accusations of wrongdoing without offering factual support.

Follow up questions:

1. What was the factual basis for claiming there were \$18 million in unaccounted funds?

Response-

Director Daily is the sole board member with any financial background. He holds a BBA in Finance and an MBA. Director Daily is former Board Member of a financial institution. He managed \$285M in Pentagon funds during his career. He is eminently qualified to understand District financial reports.

The job of the CFO is to ensure that the public understands where taxpayer money is going, and to account for all of it. The job of Director Daily, as a board member, is to ensure that he understands where the money is, and what it is being used for. Director Daily represents his

constituents, who are taxpayers. If a board member has a strong concern that there is an issue with the budget, then that member should call the State Auditor's Office and file a complaint.

The district has five main accounts. One is the General Fund. The issue was simple: The issue was simple: During the board discussion, Director Daily was asking about a particular expenditure. The state was appeared to be giving the district \$127M for payroll, and Director Daily was asking why a change in the budget was for a larger amount, about \$156M. Director Daily wanted to know where the extra money was coming from.

The answer from the district was that the matter was "complicated" and that "many" revenue accounts helped make up the difference. Director Daily explicitly requested documentation from the CFO as to where exactly the \$18 million was coming from. That information was never provided. This is the basis on which Director Daily stated that the funds were unaccounted for – the accounting has never been provided for board inspection.

2. What was the factual basis for claiming the District could not pass a State audit?

Response: Auditors look for certain things, and there are different kinds of audits. In Washington, school districts use an accounting system that is not based on "GAAP" (Generally Accepted Accounting Principles.) Therefore, the only people who can audit the district is the State Auditor, because an outside auditing firm versed in GAAP is unqualified to do so. If an outside firm was brought in, it is Director Daily's opinion that the District would fail the audit, in part because District operations rely heavily on unpredictable, non-guaranteed levies to pay basic expense, rather than being able to fund the district without extra levy infusions.

Director Daily has had several conversations, and filed several complaints, with the State Auditor's office. Since the same folks audit the district year after year, they are familiar with the district. In essence, all they look for is that the money coming in from various sources goes into the right account, the bills are legally paid, records are kept, and the budget balances. There is examination of issues such as solvency as they claim that it is the job of the school board to decide how the money is spent. In fact, when Director Daily asked if the district was a "going concern," meaning whether the district has enough money to continue on for the future, the State auditor's office said that the District does not. It is Director Daily's educated opinion that these issues would pose concerns for an outside auditing firm.

No other business would be allowed to rely on public money to remain solvent. The District gets get \$127M from the state and have a payroll of \$140M. That means that \$13M must come from the \$25M levy just to pay employees.

The district is spending far in excess of what the state allocates for hiring and personnel. The District further over-extended itself by using McCleary settlement funds for pay increases. The State warned all 295 school district not to do this, explicitly telling the districts across the state not to set up budgets that would not be fully after the disbursement of McCleary settlement funds. In previous years the, the State Auditor's Office had provided cautionary advisement about the

precarious nature of the district’s budget, and how it could leave the district short on the required funds mandated to be held in reserve.

The chart below, provided at the most recent budget hearing, is indicative of how much the district relies on approval of levies in order to maintain payroll. This is not sound financial management. In the professional experience and educated opinion of Director Daily, the district is just a few failed levies away from potential receivership by the State.

The platform on which Director Daily was elected dealt with the financial concerns about the district, and concerns about and how the District presents fiscal information to the board, and, occasionally, to the public. The law clearly states that financial oversight is one of the two responsibilities of the board. Director Daily raising legitimate concerns is a fulfillment of his duty to his constituents, and his duty as a member of the board.

## Our Community Empowers an Enhanced Staffing Model

16

Position	OSPI June Apportionment	District Budget Plan as of June
Principals	22.297	23
Classroom Teachers	369.739	520.56*
Counselors	14.841	29.5339
Nurses	1.253	7.1296
Social Workers	.532	3
School Psychologists	.217	13.559
Teaching Assistants/Paraeducators	14.058	137.372
Custodians	31.029	56.8397
Technology	4.47	14
Facilities Maintenance & Grounds	12.905	27
<i>*Additional teachers beyond depicted number are funded by federal programs</i>		