

**TEA Special Accreditation Investigation
Preliminary Investigative Report
Kemp Independent School District**

Introduction

Kemp Independent School District (herein referred to as “KISD” or “District”) has seen its fair share of senior leadership changes at the superintendent level in the last five years. The District’s high turnover of short-tenured superintendents is merely a symptom of the historically poor relationship between the KISD Board of Trustees and the District’s superintendents. Reports of racism, threats of violence, intimidation, the destruction of evidence, attempted bribery, conflicts of interest, turmoil, and board overreach characterize the disorderly and dysfunctional behavior of the school board. While the average tenure of a Texas superintendent in his/her current role is four years, since 2015, the average tenure of a superintendent or interim superintendent at KISD is one year. Since 2015, KISD has seen at least four different superintendents, including acting and interim superintendents.

The findings in this report establish that the KISD Board of Trustees (“Board”) misused its position to assert control and power, creating chaos and conflict that hindered the District’s ability to function efficiently and effectively, and therefore cultivated a toxic relationship between the superintendent and Board defined by tension and conflict. Specifically, individual trustees consistently acted individually on behalf of the Board, exceeding the scope of their authority by regularly interfering in the day-to-day operations of the District, and ultimately impeded the superintendent’s ability to serve as the chief executive officer of the District. The Board President’s frequent threats of violence, use of racial slurs and other forms of deplorable language also appear to be the norm at KISD.

In addition to governance violations, the District committed several contract procurement and conflict of interest violations when the Board President's spouse performed construction services for a District athletic facility without abiding by all contract procurement and conflict of interest legal requirements. With the help of the Board, the KISD Board President misused her position for personal financial gain, resulting in several payments in total of \$72,214.85 to the Board President's husband for District construction projects.

Furthermore, TEA received a report that the Board was impeding TEA's ability to perform this investigation when a District employee admitted to being contacted by a member of the Board and directed to delete text messages pertaining to matters being investigated and that had been privately exchanged between them.

During the course of TEA's investigation into KISD for allegations of board overreach and conflicts of interest, it was reported to TEA that the Board President had asked a District employee to engage in sexual relations with KISD Superintendent, Dr. Lisa Gonzales (herein referred to as "Superintendent Gonzales"), so that the Board had grounds for the immediate termination of the superintendent. TEA was also notified that both the Board President and the new interim superintendent were using racial slurs, and what was described as "the 'N' word," during employee meetings and conversations.

Background

Kemp Independent School District, located 45 miles Southeast of Dallas, Texas, is a district with a student enrollment of 1,624 as of October 2019. The District has a total of five campuses, Kemp High School, Kemp Alternative, Kemp Junior High, Kemp Primary, and Kemp Intermediate. The KISD Board of Trustees is comprised of seven members. It is important to note that throughout the timeline of events that transpire in this report, the position for Trustee Charissa

Roberts, herein referred to as “Trustee/Board President Roberts” or “Board President Roberts”, changes from that of a trustee to board president at various points in the timeline. Trustee/Board President Roberts, the current board president, also served as board president during school years 2015-2016, 2016-2017, 2019-2020, and 2020-2021, and served as a trustee during school years 2017-2018 and 2018-2019.

On March 26, 2019, the Texas Education Agency (TEA) received a complaint from the District’s director of business alleging that several members of the KISD Board of Trustees are exceeding their scope of authority and regularly interfering with the day-to-day operations of the District. This interference results in the Board impeding KISD Superintendent Gonzales’ ability to serve as the District’s chief executive officer. Specifically, the complainant alleged that the Board required the superintendent to make employee assignments against her recommendation, and board members physically threatened the superintendent. Additionally, the complainant alleged that the Board violated the Texas Open Meetings Act when it went into closed session without posting a specific item on the agenda. The director of business further alleged that the Board violated Tex. Educ. Code §44.031 and Tex. Loc. Gov’t Code Ch. 171 and Ch. 176,¹ pertaining to contract procurement and conflict of interest laws, when the spouse of a trustee performed construction services for the District athletic facility’s weight room without a contract, insurance, or conflict of interest forms for the trustee and her spouse. The business director later resigned in December 2019.

On August 23, 2019, the TEA Special Investigations Unit (SIU) issued a Special Accreditation Investigation (SAI) Notice to KISD for allegations pertaining to the following: Specific Powers and Duties of the Board; Governance; Purchasing Contracts; Texas Open

¹ See Appendix A
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Meetings Act; and Conflicts of Interest, in violation of the following statutes: Tex. Educ. Code §11.1511, §11.051, §44.031, Tex. Gov't Code Ch. 551, and Tex. Loc. Gov't Code Ch. 171 and Ch. 176.²

On February 10, 2020, Superintendent Gonzales submitted a letter to SIU detailing allegations substantially similar to those allegations listed in the business director's complaint. Three months later, individual board members approached Superintendent Gonzales during a private meeting unannounced to the public and directed the superintendent to resign (without receiving prior board approval). On May 11, 2020, the Board then approved a resignation/retirement agreement with Superintendent Gonzales, and following the superintendent's resignation, the Board hired Dr. Douglas Moore (herein referred to as "Interim Superintendent Moore") on May 15, 2020 to serve as interim superintendent at KISD.

On March 18, 2020, following a review of the complaint and the superintendent's letter, SIU issued a SAI Request for Information to the District regarding the complaint's allegations pertaining to the District weight room. Following the request for information, it was reported to TEA that a board member had directed a District employee to delete text messages on the employee's personal cell phone pertaining to the matters in this SAI. As a result, TEA issued a second request for information to KISD, this time for all text message communications between KISD board members and directors.

From June 8-9, 2020, SIU conducted several virtual interviews with board members and District staff. Interviews, along with the results of a document request during the SAI prompted TEA to issue an amended SAI Notice for additional alleged violations, specifically violations of Tex. Gov't Code § 552³ pertaining to Preservation of Information; Destruction, Removal, or

² See Appendices

³ See Appendix D

Alteration of Public Information; and the Failure or Refusal of Officer for Public Information to Provide Access to or Copying of Public Information. This amended SAI Notice was issued to KISD as a result of the report made to TEA that a board member had directed a District employee to delete text messages on the employee's personal cell phone pertaining to the matters in this SAI. On October 16, 2020, a government official from the City of Kemp contacted TEA to report that the current interim superintendent had used racial slurs, and what was described once again as "the 'N' word," during a meeting with District administrators. It should be noted that of the District's student population as of 2019, 1.7% of KISD students are African American, 26.8% are Hispanic, 66.9% are White, and 4.6% of students are of other ethnicities. Of District staff, 92.6% of staff are White and 7.4% of staff are people of color. All KISD board members and the current interim superintendent are White.

Following the government official's report to TEA, on October 21, 2020, an African-American campus principal filed a formal complaint⁴ with TEA alleging that Interim Superintendent Moore (who had replaced Superintendent Gonzales), a White male, had used racial slurs during a September 21, 2020 principals' meeting. The principal wrote, "During our principals' meeting, Dr. Moore stood up and brought attention to a picture on his wall that displayed him in college with some of his track team members. Dr. Moore pointed to one of the black males on the photo and stated, 'This fellow right here was one of the fastest runners, and every day after practice, he would ask me if I wanted to play Cowboys & [Racial Slur].'" The principal also alleged that during this meeting, the Interim Superintendent Moore, while addressing the issue of student dress code, mentioned a lawsuit relating to a student with dreadlocks in which the interim superintendent stated, "I once had an athlete that had braids, and if I had been out there

⁴ See Principal's Grievance Against Interim Superintendent – Exhibit 9

playing with him, I would have pulled those braids out of his head, and you shouldn't be out there playing with long hair." The principal further stated in her written grievance:

"I told him that I wanted to talk about the racial slur he made during our principal's meeting. Dr. Moore stated to me, 'Why are you offended by that word?' referring to his usage of the word [Racial Slur]. I told him that he should never have used this word and reminded him of the term's racist context. Dr. Moore was unapologetic and stated, 'I'm going to keep telling my stories, and I'm not apologizing for that.' Dr. Moore then stated, 'Would you rather me say negroid or colored?' ... 'You need to stop wearing your feelings on your sleeve, and I'm sure you've heard that word before and as a child.' I informed him that I had never heard that word, [Racial Slur], used by my superiors or my colleagues at work. Dr. Moore stated, 'Well, you better get used to it because people are going to say it.'

The principal also provided a copy of a formal, written apology⁵ from the interim superintendent to the principal in which he admits to using a racial slur while addressing school administrators.

The specific allegations and TEA's findings of fact and analysis have resulted in TEA's determination stated below:

Allegations

Allegation One

Members of the Board exceeded the scope of their authority in violation of Tex. Educ. Code §11.1511⁶ when they acted individually on behalf of the Board numerous times in violation of Tex. Educ. Code §11.051⁷, and further interfered in the day-to-day operations of the District

⁵ See Principal's Grievance Against Interim Superintendent Pgs. 536-537 – Exhibit 9

⁶ See Appendix A

⁷ See Appendix A

impeding the superintendent's ability to serve as the chief executive officer of the District in violation of Tex. Educ. Code § 11.201.

Allegation Two

The Board violated the Texas Open Meetings Act⁸ by conducting a closed session meeting without a posted agenda.

Allegation Three

The Board violated Tex. Educ. Code §44.031⁹ and Tex. Loc. Gov't Code Ch. 171 and Ch. 176¹⁰, pertaining to contract procurement and conflict of interest laws. Allegedly, the spouse of a trustee performed construction services for a District weight room without a contract or insurance, and without abiding by all legal requirements relating to conflict of interest.

Allegation Four

One or more members of the Board destroyed, or withheld, electronic evidence pertaining to matters in this SAI, and one or more trustees requested that other District employees destroy evidence, in violation of Tex. Gov't Code Ch. 552.¹¹

Findings of Fact for Allegation One

The Board exceeded the scope of its authority as outlined in Tex. Educ. Code §11.1511, acted individually on behalf of the Board numerous times, in violation of Tex. Educ. Code §11.051, and interfered in the day-to-day operations of the District, impeding the superintendent's ability to serve as the chief executive officer of the District in violation of Tex, Educ. Code §11.201.

⁸ See Appendix B

⁹ See Appendix C

¹⁰ See Appendix C

¹¹ See Appendix D

HISTORY OF THE SCHOOL BOARD'S RELATIONSHIP WITH SUPERINTENDENTS

1. Statements from KISD staff and board members show a history of contentious relationships between board members and superintendents at the District, resulting in high turnover and short tenure of District superintendents. During an interview, Trustee Rusty Clamon described events that occurred in 2013,

“First couple years on the Board we had a superintendent, Sam Swierc, and uh, immediately I guess the policies of hiring and firing, all that stuff, is normally done by superintendents, uh, immediately, uh, they was (Sic) people on this school board that decided that they knew more than an educator, how to hire teachers and administrators and that policy was stripped immediately, uh, from, from that superintendent ...immediately that superintendent felt that he was violated, you know, that we hired him to do the job but yet he couldn't do his job, uh, he banged the table, he got up, stormed out, he cussed, he screamed, uh, wasn't long after that he went out with uh, a little nervous breakdown, high blood pressure, and uh, wasn't six months after that, I think he died, but that's beside the point...we had to get another, promote the next superintendent, brought him in, they micromanaged him to death.”
2. As further evidence of the historically poor relationship between KISD board members and superintendents, Trustee Clamon confirmed that on multiple occasions, he witnessed Trustee/Board President Roberts become violent during board meetings and toward superintendents in particular, “She yells and screams at ‘em, uh, tries to intimidate ‘em, um, I would say hundreds of times, but multiple times, uh, that’s gone on.” Trustee Kiser also admitted during an interview that she overheard Trustee/Board President Roberts say

to Superintendent Gonzales, “Why don’t you come out to my house so I can kick your ass?”

BOARD RESTRICTS SUPERINTENDENT EMPLOYEE REASSIGNMENTS

3. In addition to poor, unprofessional behaviors toward the superintendent, the Board regularly interfered with the superintendent’s ability to operate District business effectively and efficiently when members of the Board prohibited the superintendent from assuming administrative authority and responsibility for the reassignment of District personnel. Specifically, in the spring of 2019, Superintendent Gonzales notified the Board that after evaluating her employees, she intended to reassign a high school principal to another campus due to the principal’s performance and based on the needs of the District. After the superintendent presented her plans to the Board, Trustee Clamon and Trustee Regina Kiser confirmed that specific board members prohibited the reassignment. Trustee/Board President Roberts also admitted that regarding the reassignment, “Some of us did not agree that that would be beneficial for the district.” Trustee Clamon confirmed, “This Board completely attacked her [Superintendent Gonzales] about her changes and said, ‘It’s not gonna happen,’” and went on to say, “I mean, she literally, they dogged her, they dogged her any way they could dog her until she was in complete tears, but that was almost weekly, every meeting we had.”
4. Trustee/Board President Roberts further admitted during an interview that she had a personal relationship with the principal who was being recommended for reassignment.

INAPPROPRIATE INTERACTIONS BETWEEN BOARD MEMBERS AND DISTRICT EMPLOYEES

5. As further evidence of the Board’s failure to remain within their scope of governance, KISD board members routinely interfered with the day-to-day operations of the District by questioning and issuing directives to District employees, circumventing the superintendent’s authority. TEA obtained more than 700 text messages between board members and District employees.¹² The text messages revealed that Trustee Jerry Gilbert, Trustee Sharon Rankin and Trustee/Board President Roberts frequently issued directives and requested specific actions be taken by District staff absent of the superintendent. Text messages from board members were sent to District staff before, during and after business hours including late night hours.
6. On multiple occasions, Trustee/Board President Roberts sent inappropriate text messages¹³ to a District employee. In July 2019, Trustee/Board President Roberts sent the following text: “Ridiculous...I’m pissed. BS excuses. Absolutely ludicrous. I’m so angry I’m shaking.” In another text sent to the employee, Trustee/Board President Roberts states, “I just showed my tail...#sorrynotsorry!!”

TRUSTEE/BOARD PRESIDENT USES POSITION TO BENEFIT SPOUSE

7. Additionally, TEA discovered that Trustee/Board President Roberts abused her position frequently by contacting District employees directly, often for her own personal benefit. A District employee (“Employee A”) explained the following in an interview with SIU:
 - a) Trustee/Board President Roberts’ Husband, Charlie Roberts, herein referred to as “Trustee/Board President Roberts’ Husband,” or “Mr. Roberts” is a used car sales

¹² See Board Members’ Text Messages – Exhibit 1

¹³ See Board Members’ Text Messages Pgs. 129, 131, 133 – Exhibit 1

- person and according to Employee A, would try to sell equipment to the District such as lawn mowers and tractors.
- b) As soon as Employee A was hired by the District, Trustee/Board President Roberts called the employee at least thirty times during the first week. In one of their conversations, the Trustee/Board President advised the employee that, “Charlie is your ‘go-to’... they need to give you a credit card so that you can call Charlie and he can tell you the right places to buy all of your parts...he does this all the time.”
 - c) Trustee/Board President Roberts also directed Employee A to terminate his/her employees because the trustee believed that they were “thieves.”
 - d) During an interview, Employee A admitted that after he/she had received board approval to purchase tractors for the District, the Board wanted the employee to work with a particular tractor dealer and to cancel the District’s existing contract with another dealer. Trustee/Board President Roberts’ Husband then contacted the employee directly and requested that the employee cancel the District’s contract with a dealer in Ennis, Texas, and instead do business with Mr. Roberts’ personal contact at a dealer in Terrell, Texas. A text message sent by Mr. Roberts to Employee A on April 8, 2019 states, “John Deere mowers good deal did you use Terrell John Deere and if so Frazier sales man.”¹⁴ Employee A asserted that Trustee/Board President Roberts’ Husband then called a dealership to try and sabotage the existing deal that the employee had already made.
 - e) Text messages from Trustee/Board President Roberts’ Husband show that Mr. Roberts also inquired about the construction of a new school agriculture barn. In a text message

¹⁴ See Rafter C. Construction Documents Pg. 504 – Exhibit 6

to Employee A, Mr. Roberts states, “You know anything about Jerry wanting a new ag barn.”¹⁵ In a text message sent by Trustee Gilbert to Employee A, Gilbert writes, “New AG barn at HS is next on my list of to do’s.”¹⁶

BOARD INTERFERES WITH SUPERINTENDENT’S HIRING OF CHIEF OF POLICE

8. Tex. Educ. Code §11.1513(a)(2)¹⁷ grants sole authority to the superintendent to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent. While Superintendent Gonzales was superintendent at KISD, local board policy pertaining to employment practices at the District granted the superintendent final authority to employ and dismiss noncontractual employees on an at-will basis, except that the Board retained the authority to employ the business manager and the maintenance and transportation director.¹⁸ E-mail correspondence¹⁹ between Trustee Gilbert and Superintendent Gonzales show that while the superintendent agreed to allow board members to serve on a hiring committee for the chief of police position, Trustee Gilbert exceeded his role as a board member during the hiring process when he took it upon himself to “head up” the committee; when he invited other community members to join the committee without the superintendent’s approval; and when he issued directives to the superintendent regarding hiring decisions related to the District’s chief of police position. In an e-mail dated April 22, 2020 from Trustee Gilbert to Superintendent Gonzales, Trustee Gilbert states, “In our meeting Monday night Charissa asked me to head up the committee

¹⁵ See Rafter C. Construction Documents Pg. 504 – Exhibit 6

¹⁶ See Board Members’ Text Messages Pg. 175 – Exhibit 1

¹⁷ See Appendix A

¹⁸ See Appendix A

¹⁹ See Chief of Police Hiring Pgs. 185-190– Exhibit 2

to find a new KISD Chief and one Resource officer. I have contacted Sheriff Bryan Beavers to ask him to be part of the committee and a recommendation for another experienced sworn officer to join the committee. I wanted to make you aware of the direction I plan to go with this.”

9. During an interview, Employee A stated that after Superintendent Gonzales presented her top candidates to the Board for the business director and chief of police positions, Trustee/Board President Roberts called the employee to discuss the matter further. Employee A stated, “I get a phone call that night from Charissa and her husband, she has me on speaker phone, and uh, says, y’all are gonna look up and you’re gonna have nothin’ but women and the ‘N word’ running this district...and when I say the ‘N word’, I mean that in a racial word, she didn’t say the ‘N word’, she used the ‘N word.’ You’re gonna have nothin’ but women and the ‘N word’ running this district, and they were both laughing about it.”

SUPERINTENDENT RESIGNATION

10. As a result of the inappropriate behaviors exhibited by board members, the superintendent ultimately resigned from the District. During interviews, several trustees, including Trustee/Board President Roberts, confirmed that Trustees Rankin, Gilbert and Roberts, approached the superintendent during a private meeting, unannounced to the public, and directed her to resign without obtaining prior board approval. Trustee/Board President Roberts described the meeting as “very direct...we felt, at this time, that this wasn’t working for us.”

11. On May 11, 2020, the Board approved a resignation/retirement agreement with Superintendent Gonzales in accordance with terms discussed in closed session.²⁰ It should be noted that during interviews, trustees admitted that the superintendent's performance evaluation did not suggest poor performance. In fact, Superintendent Gonzales's contract was renewed on November 14, 2019, just six months prior to her resignation.²¹ Trustee Clamon admitted to TEA that during a board discussion about renewing the superintendent's contract, he advised other board members that, "You're never gonna get a superintendent you like because you guys micromanage the hell out of 'em."
12. Employee A also confirmed that Trustee/Board President Roberts was particularly adamant about terminating the superintendent's employment. The employee stated during an interview that "Charissa Roberts called me and said uh, we needa do everything we can to get this 'B' out of here ...You needa take one for the team... she said, you know, go in there, y'all, try to have sex with her and I'll walk in ...you tell me when you're going to do all this, I'll walk in, I won't throw your name out there but this will be icing on the cake and we'll get her out of there, and this is how we'll get her out of there."

DISORDERLY AND DYSFUNCTIONAL BOARD MEETINGS

13. Several witnesses described the disorderly and dysfunctional nature of the KISD school Board. Following TEA's Notice of SAI to KISD, during a December 5, 2019 board meeting, a "Team 8 Training" was conducted by Arrow Educational Services (AES). Board minutes²² show that a representative from AES, Michael French, shared information with the Board regarding the duties of the board and superintendent, and

²⁰ See Superintendent Resignation Pgs. 196-197 – Exhibit 3

²¹ See Superintendent Contract Pgs. 192-195– Exhibit 3

²² See Board Minutes Pgs. 298-299 – Exhibit 4

board/superintendent relationships. Employee A who was in attendance stated that, “I put my hands on, pushing her down, um, Miss Roberts...I thought she was going to attack one of our other board members, Regina Kiser. I put my hands on her and said, ‘Don’t do this, don’t do this,’ calmed ‘em all down, and then I left.” The employee stated that the AES representative addressed the Board with the following: “Let me just start by saying, this is disorganization at its greatest.” Employee A further stated that there were multiple eyewitnesses to the incident. Board minutes show that in addition to board members, Michael French from Arrow Educational Services; President of Rugged Cams, Allen Spears; Ashley Sawyer of *The Monitor*; Superintendent Gonzales; Director of Business Finance Suzanne Smith; Technology Director Tobin Brown; Maintenance Director Jeff Ingram; and Administrative Assistant to the Superintendent Angie Ellis, were also in attendance. Trustee Clamon confirmed that he had witnessed Trustee/Board President Roberts become violent towards Trustee Kiser stating, “They’ve had multiple arguments across the table, uh, accusations that Charissa has, uh, accused her of, I can’t remember what they really were at the time, but I remember, stand up, finger pointin’, uh, threatening, uh, verbal.” When asked by SIU about what remedy would be needed to resolve the issues with the Board, Trustee Clamon’s immediate response was, “Remove ‘em. Remove every one of ‘em. It’s the best thing for this school district.”

COMPLAINTS FILED AGAINST NEW INTERIM SUPERINTENDENT

14. Following Superintendent Gonzales’ resignation/retirement agreement with the District, on May 15, 2020, the Board hired Dr. Douglas Moore (herein referred to as “Interim Superintendent Moore”) to serve as Interim Superintendent at KISD.

15. On October 16, 2020, a government official for the City of Kemp reported to TEA that Interim Superintendent Moore had used racial slurs, and what was described once again as “the ‘N’ word,” during a meeting with District administrators. As of December 1, 2020, Interim Superintendent Moore remains employed at KISD.
16. Following the government official’s report, on October 21, 2020, a KISD principal filed a formal complaint with TEA²³ alleging that Interim Superintendent Moore had used racial slurs during a September 21, 2020 principals’ meeting. The principal also provided a copy of a formal, written apology from Interim Superintendent Moore to the principal where Dr. Moore admits to using a racial slur while addressing school administrators.

Analysis of Allegation One

TEA finds that Allegation One, “The KISD Board of Trustees exceeded the scope of their authority as outlined in Tex. Educ. Code §11.1511,²⁴ acted individually on behalf of the Board numerous times, in violation of Tex. Educ. Code §11.051,²⁵ and interfered in the day-to-day operations of the District, impeding the superintendent’s ability to serve as the chief executive officer of the District, in violation of Tex. Educ. Code § 11.201” is substantiated. SIU discovered numerous occurrences, including text messages, phone calls and a secret meeting, where the KISD Board of Trustees acted individually, on behalf of the Board, without the prior authorization by a majority vote of members of the KISD Board of Trustees present at a meeting held in compliance with the Open Meetings Act.²⁶ Further, it was found that the Board regularly interfered with the day-to-day operations of the District, impeding the Superintendent’s ability to serve as the chief executive officer of the District.

²³ See Principal’s Grievance Against Interim Superintendent – Exhibit 9

²⁴ See Appendix A

²⁵ See Appendix A

²⁶ See Appendix B

BOARD RESPONSIBILITIES

As stated in Tex. Educ. Code §11.051(a-1)²⁷, a member of the board may not individually act on behalf of the board and board of trustees and may only act by a majority vote of the members present at a meeting held in compliance with the Texas Open Meetings Act.

Tex. Educ. Code §11.1511(b) and (c)²⁸ enumerate the powers of the Board of Trustees of an independent school district in relation to the superintendent. Texas law describes the primary role of the school board which is to provide local, citizen governance. School board responsibilities include adopting goals and priorities; adopting policies; hiring and evaluating the superintendent; adopting a budget; and setting a tax rate. While the school board's position is to provide oversight, planning, policymaking, and evaluation, the superintendent is responsible for implementing and managing daily operations.

BOARD/SUPERINTENDENT RELATIONSHIP

Tex. Educ. Code §11.1512(a)²⁹ defines the relationship between the board and the superintendent. It states that, "In relation to the superintendent of the school district, the board of trustees has the powers and duties specified by Sections 11.1511(b) and (c).³⁰ The superintendent shall, on a day-to-day basis, ensure the implementation of the policies created by the board."

SUPERINTENDENT RESPONSIBILITIES

The superintendent is responsible for enforcing policy and procedures to operate district business effectively and efficiently acting as the chief executive officer. Section 11.201(d) and

²⁷ See Appendix A

²⁸ See Appendix A

²⁹ See Appendix A

³⁰ See Appendix A

Section 11.1513(a)(2)³¹ of the Texas Education Code identifies the duties of the superintendent, which include, amongst other responsibilities:

- managing the day-to-day operations of the district as its administrative manager;
- planning, operation, supervision, and evaluation of the education programs, services, and facilities of the district and for the annual performance appraisal of the district's staff;
- except as provided by Tex. Educ. Code §11.202, the assignment, supervision, and evaluation of all personnel of the district other than the superintendent;
- overseeing compliance with the standards for school facilities established by the commissioner under Section 46.008;
- organizing the district's central administration;
- providing joint leadership with the board of trustees; and
- having sole authority to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent.

The Superintendent assumes administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of the district other than the superintendent. At the time of the incidents relevant to the allegations, KISD local school board policy for employee assignment and schedules read, "All personnel are employed subject to assignment and reassignment by the Superintendent or designee when the Superintendent determines that the assignment or reassignment is in the best interest of the District. Reassignment shall be defined

³¹ See Appendix A

as a transfer to another position, department, or facility that does not necessitate a change in the employment contract of a contract employee.”³²

BOARD INTERFERES WITH EMPLOYEE ASSIGNMENTS

As detailed in Findings of Fact 3, the Board exceeded its duties and responsibilities in violation of local board policy pertaining to employee assignment and schedules and Tex. Educ. Code §11.1511(b), by prohibiting the superintendent from reassigning a principal to a different campus after the superintendent determined that the reassignment would be in the best interest of the District. As detailed in Finding of Fact 4, there is also reason to believe that Trustee/Board President Roberts’ personal relationship with the principal influenced the Board’s decision to reject the superintendent’s proposal.

INAPPROPRIATE INTERACTIONS BETWEEN BOARD MEMBERS AND DISTRICT PERSONNEL

As detailed in Findings of Fact 5-8, individual trustees violated Tex. Educ. Code §11.051(a-1) by issuing directives and making requests of staff without first receiving approval from the entire Board, and without copying the superintendent. Text messages from Trustee/Board President Roberts and her Husband, Trustee Gilbert and Trustee Rankin to KISD directors reveal that individual trustee overreach is common practice at KISD. The messages demonstrate that individual trustees have a long-standing practice of monitoring, directing, influencing, and interfering in the day-to-day operations of the District.

Further, as detailed in Findings of Fact 2, 6, 7, 9, 12, and 13, Trustee/Board President Roberts violated Tex. Educ. Code §11.051(a-1) when the trustee acted improperly on multiple occasions in her interactions with District employees. As detailed in Findings of Fact 9 and 12,

³² See Appendix A

Trustee/Board President Roberts used racist and sexist language to describe KISD employees and employee candidates during private conversations with Employee A. It should be noted that 33.1% of KISD students and 7.4% of District staff are people of color.

As detailed in Finding of Fact 12, Trustee/Board President Roberts not only violated Tex. Educ. Code §11.051(a-1) but may have also committed criminal acts when she encouraged Employee A to engage in sexual relations with the superintendent so that the Board had sufficient grounds for the immediate termination of the superintendent. During this conversation, the Trustee/Board President used sexually explicit and pejorative language to describe the superintendent.

TRUSTEE/BOARD PRESIDENT THREATENS AND INTIMIDATES SUPERINTENDENTS, OTHER BOARD MEMBERS

As detailed in Finding of Fact 2 and 3, the Board violated Tex. Educ. Code §11.051(a-1) when they allowed Trustee/Board President Roberts to use intimidation and threats of violence against superintendents and other board members. Trustee/Board President Roberts not only violated Tex. Educ. Code §11.051(a-1), but also may have committed criminal acts when she threatened superintendents and other board members.

BOARD UNDERMINES SUPERINTENDENT'S AUTHORITY DURING HIRING OF DISTRICT EMPLOYEES

Tex. Educ. Code §11.1513(a)(2)³³ grants sole authority to the superintendent to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent. According to Tex. Educ. Code §11.1513(b), the board of trustees may accept or

³³ See Appendix A

reject the superintendent’s recommendation regarding the selection of district personnel and shall include the board’s acceptance or rejection in the minutes of the board’s meeting, in accordance with the Texas Open Meetings Act. For the duration of Superintendent Gonzales’ governance at the District, KISD local school board policy pertaining to employment practices read, “The Board delegates to the Superintendent final authority to employ and dismiss noncontractual employees on an at-will basis, except that the Board retains the authority to employ the business manager and the maintenance and transportation director.”³⁴

As detailed in Finding of Fact 8, Trustee Gilbert violated Tex. Educ. Code §11.1513(a)(2) by circumventing the superintendent’s sole authority to make recommendations to the Board pertaining to the hiring of an at-will employee, in this case, the District’s chief of police. Trustee Gilbert exceeded his role as a board member during the hiring process when he took it upon himself to “head up” the committee; when he invited other community members to join the committee without the superintendent’s approval; and when he issued directives to the superintendent regarding hiring decisions related to the District’s chief of police position. While Tex. Educ. Code §11.1513(b) grants the board authority to accept or reject the superintendent’s recommendations regarding the selection of district personnel, the board must act together as a single body, not through an individual board member, and the board’s acceptance or rejection must be included in the minutes of the board’s meeting, as required by the Texas Open Meetings Act.

Therefore, Allegation One, that “The KISD Board of Trustees exceeded the scope of their authority as outlined in Tex. Educ. Code §11.1511, acted individually on behalf of the Board numerous times, in violation of Tex. Educ. Code §11.051, interfered in the day-to-day operations

³⁴ See Appendix A. Following TEA’s Notice of SAI to KISD, the Board removed the provision in board policy regarding the Board’s authority to employ the business manager and maintenance and transportation director.

of the District, impeding the superintendent's ability to serve as the chief executive officer of the District in violation of Tex. Educ. Code § 11.201" is substantiated.

Allegation Two

The Board violated the Texas Open Meetings Act by conducting a closed session meeting without a posted agenda.

1. While TEA did find numerous examples of trustees acting individually, or in a group less than a quorum and without Board approval, TEA was unable to substantiate the allegation that the KISD Board of Trustees violated the Texas Open Meetings Act by conducting closed session meetings without a posted agenda.

Findings of Fact for Allegation Three

The Board violated Tex. Educ. Code §44.031 and Tex. Loc. Gov't Code Ch. 171 and Ch. 176, pertaining to contract procurement and conflict of interest laws, when a spouse of a trustee performed construction services for a District weight room.

The following findings of fact are a result of a review of documents submitted by KISD, along with interviews of KISD board members and District employees. The findings reveal that the District contracted with Trustee/Board President Roberts' Husband for major construction services on a new school athletic weight room facility while violating several contract procurement and conflict of interest laws. Following the Board's initial discussions regarding the hiring of the trustee's spouse for the weight room project, the Board, including Trustee/Board President Roberts, appointed her Husband to serve on a construction subcommittee for the weight room, and delegated authority over the weight room to the subcommittee.

The subcommittee, also comprised of two board members including the board vice president, then circumvented the competitive sealed bidding process, the original Board-selected

method for contract procurement for construction services for the weight room, by having prospective vendors join a purchasing cooperative for construction supplies and materials. Trustee/Board President Roberts' Husband, who had never owned a construction business, then formed a construction business for the purpose of contracting with the District and subsequently joined a purchasing cooperative for supplies and materials. Soon thereafter, the Board subcommittee allowed Trustee/Board President Roberts' Husband to complete major construction services for the weight room without insurance, a contract and without the timely submission of signed conflict of interest documents for both the Trustee/Board President and her Husband. After work had already been initiated, the District then awarded a contract for \$48,449.35 for concrete work to Trustee/Board President Roberts' Husband. This resulted in multiple payments to the Trustee/Board President Roberts' Husband over a five-month period in total of \$69,214.85.

BOARD APPROVES COMPETITIVE SEALED BIDS AS CONSTRUCTION DELIVERY METHOD

1. In May 2017, the Board voted unanimously to move forward with a plan for a new athletic weight room facility located at Kemp High School. The Board approved the purchase of a pre-engineered metal building not to exceed \$100,000.³⁵
2. In June 2017, the Board approved competitive sealed bids as the construction delivery method for the weight room. The Board then chose to not seek a general contractor for the project but chose to form a subcommittee to oversee the project. One of the appointed members for this subcommittee was Trustee/Board President Roberts whose husband, Charlie Roberts, throughout the course of the subcommittee project, was appointed in her

³⁵ See Board Minutes Pgs. 205, 208 – Exhibit 4
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stead as an advisor to the committee and was ultimately awarded a contract for \$69,214.85 towards the construction of the weight room project.³⁶

3. In July 2017, the Board then authorized the Board subcommittee to approve purchases for the weight room construction project not to exceed \$495,000.³⁷
4. In February 2018, the Board subcommittee agreed not to hire Architect Paul Canup as general contractor due to cost. Instead, the subcommittee determined that the Maintenance and Transportation Director would remain the interim [project manager] for the time being.³⁸
5. On April 27, 2018, Robertson Concrete Construction submitted a proposal/bid for \$72,543.20 for the foundation of the weight room. This price included building and materials for an 8,400 square foot building slab and 3,008 square feet of flatwork and sidewalks.³⁹
6. Later subcommittee notes reveal that “CR” [Charlie Roberts] was the subcommittee point of contact for Robertson Concrete Construction. Charlie Roberts is the husband of Trustee/Board President Roberts.⁴⁰
7. On May 24, 2018, minutes⁴¹ for a subcommittee meeting show that Trustee/Board President Roberts’ Husband was now a member of the subcommittee, and Trustee/Board President Roberts stopped attending subcommittee meetings following Mr. Roberts’ subcommittee membership.

³⁶ See Board Minutes Pg. 211 – Exhibit 4

³⁷ See Board Minutes Pg. 214 – Exhibit 4

³⁸ See Board Subcommittee Minutes Pg. 260 – Exhibit 4

³⁹ See Robertson Concrete Construction Bid Pgs. 525-526 – Exhibit 7

⁴⁰ See Vendor List Pgs. 527-528 – Exhibit 8

⁴¹ See Board Subcommittee Minutes Pg. 263 – Exhibit 4

8. In July 2018, board minutes⁴² show that the Board went into closed session to seek legal counsel regarding the weight room construction project. When the Board reconvened into open session, the Board voted to cancel the weight room construction project with Red Dot Buildings, a metal building manufacturer specializing in pre-engineered metal building projects. The Board then authorized the superintendent to advertise for competitive bid for the weight room metal building and increased the authority of the subcommittee to an additional \$200,000.
9. Again, in August 2018, the Board sought legal advice from their attorney regarding competitive bids for a pre-engineered building. Subsequently, the Board agreed to reject all bids for the pre-engineered metal building and authorized the superintendent or her designee to advertise for new competitive bids for the pre-engineered metal building.⁴³
10. Board meeting minutes⁴⁴ from August 27, 2018 show that the superintendent, the former maintenance and transportation director, and the District director of business services held a conference call with legal counsel on August 22, 2018 to discuss hiring a site manager for the weight room project, as well as to discuss compensation options for the site manager which included a flat stipend. The Board then voted to compensate the maintenance and transportation director with a \$7,500 stipend to oversee the weight room project and to keep an existing “helper” until the project was complete.
11. During this same meeting, board minutes⁴⁵ show that Superintendent Gonzales intended to meet with legal counsel to ensure that the District was following the competitive sealed bid process elected by the Board at the onset of the weight room, on an as-needed basis.

⁴² See Board Minutes Pg. 227 – Exhibit 4

⁴³ See Board Minutes Pg. 231 – Exhibit 4

⁴⁴ See Board Minutes Pgs. 232-234 – Exhibit 4

⁴⁵ See Board Minutes Pg. 232 – Exhibit 4

BOARD DISCUSSIONS ON HIRING TRUSTEE'S HUSBAND FOR CONSTRUCTION

12. In October 2018, Trustee Clamon suggested during a board meeting that Trustee/Board President Roberts' Husband, who remained on the subcommittee, take over the weight room project as general contractor. The Board did not vote on this matter. During this same meeting, the Board hired a new maintenance director to replace the previous maintenance and transportation director.⁴⁶

13. On November 2, 2018, the Board called a special session to discuss potentially hiring a trustee's husband as general contractor for the weight room project.⁴⁷ Superintendent Gonzales contacted the following sources to request feedback regarding the hiring of a trustee's spouse to complete construction of the weight room, and presented her findings⁴⁸ to the Board:

- a) Julie Allen, Attorney for the Texas Association of School Boards (TASB), emailed TASB resources containing information on construction procurement and conflict of interest disclosure requirements for both board members and potential vendors. While meeting minutes indicate that Ms. Allen provided no specific guidelines, they reveal that Ms. Allen provided general counsel and continued to refer back to specific local policies pertaining to contract services, facilities construction competitive bidding, facilities construction competitive sealed bid proposals, and conflict of interest disclosures.

⁴⁶ See Board Minutes Pg. 248 – Exhibit 4

⁴⁷ See Board Minutes Pgs. 249-250 – Exhibit 4

⁴⁸ See Board Minutes Pgs. 249-250 – Exhibit 4, Weight Room Construction Feedback – Exhibit 5

- b) Lisa Gallagher of Gallagher Construction Services shared information regarding site manager responsibilities, and steps for compliance with KISD procurement policies. Gallagher specifically addressed the following areas: performing a job order contract; options for construction projects; and following the competitive sealed bid process.
- c) Legal counsel provided information regarding the following topics: Texas State Nepotism laws; Job Order of Contract; Construction Manager at Risk; General Contractor; and Project Manager/Construction Manager Agent. The superintendent provided handwritten notes regarding communication with Youngblood indicating that, “No fee would be charged by Charlie Roberts. No conflict of interest. Same thing over and over outlining policy.”⁴⁹

14. Attorney Allen of TASB provided direct links to specific documents⁵⁰ published online in the TASB School Law eSource. The documents contained the following advice, none of which were followed by KISD:

- a) Factors that must be considered when awarding a contract under TEC44.031(b) including the reputation of the vendor and of the vendor’s goods or services; the quality of the vendor’s goods or services; the vendor’s past relationship with the district; total long-term cost to the district to acquire vendor’s goods or services;
- b) Factors that must be considered using a construction procurement method under Ch. 2269 including price; offeror’s experience and reputation; quality of the offeror’s goods or services; offeror’s safety record; whether the offeror’s financial capability is appropriate to the size and scope of the project;

⁴⁹ See Weight Room Construction Feedback Pg. 328 – Exhibit 5

⁵⁰ See Weight Room Construction Feedback Pgs. 334-357- Exhibit 5

- c) Detailed conflict of interest disclosure requirements as outlined in Ch. 171 which describe the two-step disclosure process for board members: filing an affidavit prior to any vote or a decision on any matter involving the associated business entity, and abstaining from participation;
- d) Detailed conflict of interest disclosure requirements as outlined in Ch. 176 in which local government officers must file conflict of interest disclosure documents with the district's records administrator by 5 PM on the seventh business day after the official becomes aware that there is an interest to disclose; and
- e) the penalties for failing to abide by procurement laws and penalties for violating conflict of interest disclosure requirements.

15. Following Superintendent Gonzales's presentation regarding the aforementioned resources, Trustee Gilbert made the motion for the Board to continue without a construction manager and instead have a KISD director serve as a project manager for the weight room project. Trustee/Board President Roberts seconded the motion and the motion passed unanimously 6-0.⁵¹

DISCUSSIONS REGARDING THE USE OF REGION 7 PURCHASING COOPERATIVE

16. In an attempt to circumvent the competitive sealed bidding process, the Board subcommittee met on November 5, 2018⁵² to discuss using the Region 7 Purchasing Cooperative for vendors they were considering for construction services for the weight room. Although Trustee/Board President Roberts' Husband was one of the potential vendors being considered, Mr. Roberts, now a member of the construction subcommittee,

⁵¹ See Board Minutes Pg. 250 – Exhibit 4

⁵² See Board Subcommittee Minutes Pgs. 267-268 – Exhibit 4

became involved in these discussions to circumvent the competitive bidding process through the use of a purchasing cooperative. Meeting minutes indicate the following:

“As the committee reviewed the procurement options, it was determined if our vendors in mind for completing the work were members of the Region 7 Purchasing Cooperative, then the steps outlined for the meeting would not be necessary because procurement would be met by utilizing vendors from Region 7 Purchasing Board. Dr. Gonzales shared the board had selected to use the competitive sealed bid process for procurement of the weight room and with that said, this avenue or selected procurement process would have to be changed by board action to reflect this different direction for completion of the weight room...It was agreed by the committee to seek legal counsel to determine if the committee could recommend to the board two procurement methods to finish the weight room including both competitive sealed bid process for some of the projects left for completion and job order contract, pursuing vendors from Region 7 Purchasing Cooperative for other projects left to complete. The committee agreed.”

BOARD RESOLUTION TO DELEGATE AUTHORITY OVER CONSTRUCTION PROJECT TO SUBCOMMITTEE

17. In a November 26, 2018 board meeting, Trustee Lynda Page made the motion to adopt a resolution of the Board to delegate authority over the weight room construction project. Although the Board had received prior legal advice on conflicts of interest, and the Board was taking an action to delegate authority to a subcommittee for which her Husband was a

member, Trustee/Board President Roberts seconded the motion and the motion passed unanimously.⁵³ The resolution⁵⁴ authorized the following, effective immediately:

- a) The Board delegates authority to the subcommittee to select the delivery/procurement method for the remaining portions of the weight room project.
- b) The Board appoints the following individuals to the Board's Construction Subcommittee: Trustee Gilbert, Trustee Clamon, Charlie Roberts, Maintenance Director Jeff Ingram, Business Manager Kim Johnson, and Superintendent Dr. Lisa Gonzales.
- c) The Board delegates to the subcommittee, with regard to the weight room project, the authority to:
 - 1) Develop (through the Subcommittee or through the Subcommittee's designee, at the Subcommittee's discretion) Requests for Bids, Requests for Competitive Sealed Proposals, and any other solicitation documents, as appropriate and in keeping with Construction Subcommittee's selected procurement or delivery method;
 - 2) Establish the selection criteria and the weight to be given to each criteria to be used in evaluating and ranking bids or proposals;
 - 3) Advertise or publish notices of requests for bids or proposals in a manner prescribed by law and/or otherwise solicit bids or proposals

⁵³ See Board Minutes Pg. 253 – Exhibit 4

⁵⁴ See Board Resolution Pgs. 255-256 – Exhibit 4

in accordance with law (through the Subcommittee or through the Subcommittee's designee, at the Subcommittee's discretion);

- 4) Receive and publicly open the bids or proposals and read aloud the names of the offerors/bidders/proposers and any monetary amounts, or designate another Individual(s) to perform those functions;
 - 5) Evaluate, analyze and rank the bids or proposals;
 - 6) Negotiate proposals and contracts;
 - 7) Make award to the lowest responsible bidder or highest scoring proposer;
 - 8) Negotiate, sign and otherwise execute the awarded contract(s); and
 - 9) Other ministerial duties as required to procure public work contracts.
- d) The Board authorizes the subcommittee to utilize the assistance of any person or entity that it deems appropriate to carry out the authority granted to it by this resolution.
- e) The Board authorizes the subcommittee to expend District funds and approve purchases for the remainder of the Project in a total amount not to exceed \$750,000. The expenditure of funds in excess of the stated amount will require approval of the Board.

USE OF REGION 7 PURCHASING COOPERATIVE TO CIRCUMVENT COMPETITIVE BIDDING PROCESS FOR CONSTRUCTION SERVICES

18. The Board subcommittee, including Trustee/Board President Roberts' Husband, met again on December 3, 2018 to discuss the use of a purchasing cooperative to circumvent the

competitive bidding process for major construction services for the weight room. The subcommittee identified vendors that had completed the necessary documentation with the Region 7 Purchasing Cooperative for their next award on December 13, 2018.⁵⁵ The vendors expected to be awarded on December 13, 2018 were Lake Glass & Mirror, Intex, 3-D Mechanical, JRS Plumbing, Robertson Concrete, and Kaufman Overhead Door. Subcommittee members were also given a copy of the Region 7 Purchasing Cooperative bid timeline for other prospective vendors interested in contracting for the weight room. During this meeting, minutes show that subcommittee members, including Trustee/Board President Roberts' Husband, were in favor of drafting job order contracts for the known contractors so that contracts could be signed, and work could begin after December 13, 2018.

TRUSTEE/BOARD PRESIDENT'S HUSBAND JOINS PURCHASING COOPERATIVE AND IS NOW DOING BUSINESS AS "RAFTER C. CONSTRUCTION"

19. Despite Trustee/Board President Roberts' Husband's position and influence on the Board subcommittee; his participation in discussions regarding the use of a purchasing cooperative to circumvent the competitive bidding process for major construction services; and the Board's knowledge that the contract with Mr. Roberts was for major construction services (and not exclusively for supplies and materials) that require insurance, documentation from Region 7 ESC Purchasing & Vendor Services⁵⁶ shows that Mr. Roberts, doing business as "Rafter C. Construction," submitted his first bid for "Athletic Trainer/Fieldhouse Equipment & Supplies" on January 28, 2019. The bid was approved on

⁵⁵ See Board Subcommittee Minutes Pg. 269 – Exhibit 4

⁵⁶ See Rafter C. Construction Documents Pgs. 450-453 – Exhibit 6

February 21, 2019 for “metal building supplies concrete mason/brick/stone painting” and was valid for one year.

20. During a February 11, 2019 board meeting, Trustee Gilbert announced Charles “Charlie” Roberts (Trustee/Board President Roberts’ Husband) as the general contractor to oversee the weight room facility.⁵⁷ However, board minutes show that the District had not voted to elect Mr. Roberts as the general contractor for the weight room construction project.
21. The District’s Attorney confirmed in a November 16, 2020 e-mail to TEA that, “With respect to the general contractor question, I do not believe Mr. Roberts was hired as the general contractor. As allowed by the Texas Government Code, the school district was acting as its own general contractor. I believe Raptor C [Rafter C. Construction] was hired to pour concrete as a subcontractor of the school district.”⁵⁸
22. On February 26, 2019, Mr. Roberts then filed an Internal Revenue Service (IRS) Form W-9 Request for Taxpayer Identification Number and Certification for Rafter C. Construction.⁵⁹ During interviews, several interviewees confirmed that Mr. Roberts had never owned a construction business until he was being considered for the contract, and that he was instead a used car salesman and owner of a cattle ranch. In fact, the address provided in the W-9 was for “USA Auto Brokers,” a used car dealership in Dallas, Texas.⁶⁰ A Texas Comptroller Sales Taxpayer search also indicated that “Charles Roberts” had a sales permit for “USA Auto Brokers” located at the address provided in the IRS Form W-9 for Rafter C. Construction.⁶¹ Additionally, the District’s attorney confirmed that

⁵⁷ See Board Minutes Pg. 274 – Exhibit 4

⁵⁸ See Rafter C. Construction Documents Pgs. 523-524 – Exhibit 6

⁵⁹ See Rafter C. Construction Documents Pg. 442 – Exhibit 6

⁶⁰ See Rafter C. Construction Documents Pgs. 454- 455 – Exhibit 6

⁶¹ See Rafter C. Construction Documents Pgs. 457-458 – Exhibit 6

Trustee/Board President Roberts' Husband did not own a construction company but was instead operating as a sole proprietor doing business as (DBA) Rafter C. Construction.⁶²

23. Seven days after Trustee/Board President Roberts' Husband's bid for construction supplies and materials was approved by Region 7, on February 28, 2019, the construction subcommittee met⁶³ and discussed the Trustee/Board President, her Husband, and Rafter C. Construction. Minutes from the meeting reveal that Superintendent Gonzales asked the subcommittee if they could provide conflict of interest policy documents for Trustee/Board President Roberts and her Husband to sign. Although the Board had not yet obtained the signed conflict of interest disclosure forms, Trustee Gilbert made the motion to approve a quote provided by Rafter C. Construction for concrete sidewalks and a driveway and the motion passed unanimously 5-0 (Mr. Roberts did not attend the meeting).

24. Although a contract had not yet been signed, the maintenance director, in his March 18, 2019 report to the Board, announced that concrete for the weight room sidewalks and driveways would be poured on March 21, 2019.⁶⁴

25. Without a signed contract, insurance and signed conflict of interest disclosure documents, on March 21, 2019, Trustee/Board President Roberts' Husband, doing business as "Rafter C. Construction," initiated concrete work on the weight room. A "Sales Receipt" [invoice], dated March 25, 2019, submitted by Rafter C. Construction to KISD, confirmed through handwritten notes from the maintenance director show that "Work was done on 3-21-2019" for approximately 1,700 square feet of sidewalk concrete work.⁶⁵ In addition to major

⁶² See Rafter C. Construction Documents Pgs. 523-524 – Exhibit 6

⁶³ See Board Subcommittee Minutes Pg. 303 – Exhibit 4

⁶⁴ See Board Minutes Pg. 281 – Exhibit 4

⁶⁵ See Rafter C. Construction Documents Pg. 463 – Exhibit 6

construction services having been completed without insurance, the receipt reveals that Rafter C. Construction had charged KISD \$910.00 for insurance.

26. It was not until four days after major construction services had already been initiated that Mr. Roberts attained a Certificate of Liability Insurance from the Insurance Group of North Texas on March 25, 2019.⁶⁶

27. On March 26, 2019, five days after construction work had already been completed, KISD and Rafter C. Construction entered into a contract⁶⁷ for \$48,449.35 for concrete work for the weight room sidewalk and parking area.

28. On the same day the contract was signed, Trustee/Board President Roberts signed a Local Government Officer Conflicts Disclosure Statement (Form CIS) and Mr. Roberts signed a vendor Conflict of Interest Questionnaire (Form CIQ).⁶⁸ It should be noted that both conflict of interest disclosure documents were not filed until:

a) 149 days after the Trustee/Board President's Husband was initially considered for a construction contract;

b) 145 days after the District had sought legal counsel from multiple sources regarding conflict of interest disclosure requirements for board members and vendors;

c) 121 days after the Board, including Trustee/Board President Roberts, voted to appoint Mr. Roberts onto the construction subcommittee and delegated authority to the subcommittee;

d) 27 days after the subcommittee passed a motion to approve a quote provided by Rafter C. Construction for concrete sidewalks and a driveway (during this same meeting,

⁶⁶ See Rafter C. Construction Documents Pg. 440 – Exhibit 6

⁶⁷ See Rafter C. Construction Documents Pgs. 374-439 – Exhibit 6

⁶⁸ See Rafter C. Construction Documents Pgs. 444-447 – Exhibit 6

Superintendent Gonzales had asked the subcommittee if they could provide conflict of interest policy documents for Trustee/Board President Roberts and her Husband to sign); and

e) 6 days after work had already been completed on the weight room without a contract.

29. Although the contract's agreement was for \$48,449.35, from March through July 2019, Mr. Roberts, doing business as Rafter C. Construction, was paid a total of \$69,214.85 by KISD for construction on the weight room, an amount well over the contract's agreement of \$48,449.35. Below is a list of payments⁶⁹ made to Trustee/Board President Roberts' Husband during the five-month period:

a) On March 27, 2019, a total payment of \$9,165

b) On May 23, 2019, a total payment of \$20,491.40

c) On June 5, 2019, a total payment of \$18,792.95

d) On June 12, 2019, a total payment of \$11,648.50

e) On July 24, 2019, a total payment of \$9,117

30. District financial records⁷⁰ reveal that the Trustee/Board President Roberts' Husband, doing business as Rafter C. Construction, was also paid \$3,000 for repairs made to a school bus barn entrance.

31. Despite the Trustee/Board President's assertions that her and her Husband did not profit from these transactions, Trustee/Board President Roberts and her Husband refused to provide information to the TEA concerning payments to subcontractors; therefore, TEA could not verify that Mr. Roberts had not in fact profited from his transactions with the

⁶⁹ See Rafter C. Construction Documents Pgs. 459-478 – Exhibit 6

⁷⁰ See Rafter C. Construction Documents Pgs. 479-481 – Exhibit 6

District. A sales receipt⁷¹ received by KISD on June 4, 2019 from Rafter C. Construction contains handwritten notes from the KISD transportation and maintenance secretary (“Employee B”) stating that Mr. Roberts “Refused to send invoices. Only sales receipt.” The business director also confirmed in an email⁷² dated February 27, 2020 that, “[Employee B] did remember calling and asking for an invoice in a specific format and Mr. Roberts responded that a ‘Sales Receipt’ is his invoice. Per the Business office personnel and Maintenance Director, we did not receive information regarding payment to be or what was paid to subcontractors.”

32. Trustee Kiser admitted during an interview that Trustee/Board President Roberts continued to participate in discussions regarding the weight room even after her Husband was being considered by the Board for a construction contract and after her Husband entered into a contract with the District. Trustee Kiser stated, “Trustee Roberts would get hostile when asked for evidence regarding payment to subcontractors. Usually it would be if I were asking questions about him [Mr. Roberts] being the contractor and, um, that they needed to present some proof that if he went around and paid the gentleman the exact amount that the school district paid him, why didn’t they just show a cancelled check? And she would just blow up.”

33. Despite these concerns, board members on the construction subcommittee, allowed the Trustee/Board President Roberts’ Husband to influence how the construction project would be completed; what contractors and materials would be used to complete the project; and then subsequently awarded the Trustee/Board President Roberts’ Husband a contract that resulted in \$69,214.85 in payments to Rafter C. Construction for major construction

⁷¹ See Rafter C. Construction Documents Pg. 482-483 – Exhibit 6

⁷² See Rafter C. Construction Documents Pgs. 482-483 – Exhibit 6

services (and not exclusively for supplies and materials) without going through the competitive bidding process. Employee A stated during an interview, “Charlie would offer that he could do different construction projects and at the time, they needed concrete work for the sidewalks, driveways...so he proposed a price that he could do it for... he was telling us everything, what he could do it for, savings, and instead of going out to competitive bid like the norm would be, they [board members on the subcommittee] would just say ‘Yes, you do the concrete, you verify the square footage when it’s done’...Board members would just go with Charlie’s recommendations.”

34. Employee A went on to describe how Trustee/Board President Roberts’ Husband tried to bribe him with cash payments and equipment in an attempt to obtain copies of competitive bids for the Trustee/Board President’s Husband’s personal use. The employee stated: “When we’re making these arrangements to move forward after the concrete, Charlie said, ‘Go out and get all the bids for the interior finish... I want you to get me bids on what it’s going to take to do the block walls and bring that back to me. If I get those bids... I’ll pay you in cash payments or I’ll pay you in equipment...go get me the bids so I can get the numbers right and I’ll see that you’re taken care of... I know the district needs a tractor, don’t worry, I’ll give it to you; you can leave it at the school or take it home...it’s yours.” Text messages reveal that on several occasions, Trustee/Board President Roberts’ Husband requested copies of bids for construction jobs related to the weight room. In a series of text messages⁷³ regarding sprinklers, dated December 27, 2018, Mr. Roberts writes, “Send me a copy also. Did Alvin berry bid job.” In another text message,⁷⁴ Mr. Roberts writes, “Make sure I get a copy of all bids before Jerry or at same time I don’t want to wait for

⁷³ See Rafter C. Construction Documents Pg. 488 – Exhibit 6

⁷⁴ See Rafter C. Construction Documents Pg. 489 – Exhibit 6

him thanks.” On January 2, 2019, Mr. Roberts again asks if Alvin Berry⁷⁵ submitted a bid for sprinklers.⁷⁶ On January 18, 2019, Mr. Roberts then asks Employee A to provide him a copy of bids for HVAC units.⁷⁷

35. Despite her Husband’s status as a contractor on the weight room construction project, Trustee/Board President Roberts continued to participate in discussions regarding the weight room. In fact, Trustee/Board President Roberts made a motion on May 1, 2019 to approve a weight room facility oversight stipend for the maintenance director who served as the weight room construction project manager, for \$5,000, where the motion passed 7-0.⁷⁸

36. On October 21, 2019, following TEA’s Notice of SAI to KISD, the Board, with the exception of Trustee/Board President Roberts, approved the following revisions to the construction subcommittee membership where the Trustee/Board President’s Husband resigned from his position on the subcommittee:⁷⁹

- a) Addition – Suzanne Smith, Kemp ISD Director of Business Services
- b) Resignation – Kim Johnson, Retiring Kemp ISD Director of Business Services
- c) Resignation – Charlie Roberts, Construction Subcommittee Member
- d) Addition – Trustee Rankin, Construction Subcommittee Member

TRUSTEE/BOARD PRESIDENT UNTIMELY DISCLOSES SUBSTANTIAL INTEREST IN A BUSINESS ENTITY

⁷⁵ The Board Presidents’ Husband’s interest in “Alvin Berry” is unclear.

⁷⁶ See Rafter C. Construction Documents Pg. 489 – Exhibit 6

⁷⁷ See Rafter C. Construction Documents Pgs. 491-492 – Exhibit 6

⁷⁸ See Board Minutes Pg. 285 – Exhibit 4

⁷⁹ See Board Minutes Pg. 295 – Exhibit 4

37. In addition to the conflict disclosure form requirement of Ch. 176, Texas Local Government Code also requires local government officers (which includes members of the governing body of a school district) to disclose when they (or their spouse, parents, or children) have a substantial interest in a business entity before a vote or decision on any matter involving the business entity in Ch. 171. On November 7, 2019, Trustee/Board President Roberts filed an Affidavit Disclosing Substantial Interest in a Business Entity or Real Property,⁸⁰ as required by Tex. Loc. Gov't Ch. 171. Here the Trustee/Board President disclosed her affiliation with Rafter C. Construction owned by her Husband. It should be noted that the Trustee/Board President filed the affidavit:

- a) 375 days after her Husband was initially considered for a construction contract;
- b) 371 days after the District had sought legal counsel from multiple sources regarding conflict of interest disclosure requirements for board members;
- c) 347 days after the Board, including Trustee/Board President Roberts, voted to appoint Mr. Roberts onto the construction subcommittee and delegated authority to the subcommittee;
- d) 253 days after the subcommittee passed a motion to approve a quote provided by Rafter C. Construction for concrete sidewalks and a driveway (during this same meeting, Superintendent Gonzales had asked the subcommittee if they could provide conflict of interest policy documents for the Trustee/Board President and her Husband to sign); and
- e) 227 days after the District had awarded the construction contract to the Trustee/Board President's Husband.

⁸⁰ See Rafter C. Construction Documents Pgs. 448-449 – Exhibit 6

38. Although multiple witnesses stated that Trustee/Board President Roberts and her Husband refused to provide evidence for payments made to subcontractors working under Mr. Roberts to demonstrate that her Husband did not profit from his transactions with the District, in her affidavit, Trustee/Board President Roberts writes: “I am filing this document in an abundance of caution to be transparent. To my knowledge, the company was created only to assist the district. I do not know the fair market value due to no profits.”
39. Following TEA’s Notice of SAI to KISD, on December 5, 2019, the Board met to discuss the issue of a project manager for the weight room, and the previous Board-approved procurement method. Board meeting minutes⁸¹ indicate the following:

“There was no action taken regarding the Project Manager as referred to in the November 2, 2018 board minutes. The minutes reflected the Maintenance Director would be the Project Manager and no action was taken on a General Contractor. Dr. Gonzales shared emails dated November 21- November 26, 2019 to Attorney Elizabeth Nelson at Walsh Gallegos that included a procurement review for compliance with board policies for the weight room completion project. Also, competitive sealed bids were discussed and reviewed as reflected in approved board minutes as the procurement method.”

BOARD RESCINDS RESOLUTION TO DELEGATE AUTHORITY TO WEIGHT ROOM SUBCOMMITTEE

40. On January 13, 2020, following TEA’s Notice of SAI to KISD, the Board dissolved the weight room subcommittee and rescinded the Board’s resolution, dated November 26, 2018, to delegate authority to the weight room subcommittee.⁸² Once again, Trustee/Board

⁸¹ See Board Minutes Pg. 298 – Exhibit 4

⁸² See Board Minutes Pg. 316 – Exhibit 4

President Roberts participated in this meeting and voted in favor of rescinding the resolution.

Analysis of Allegation Three

TEA finds that Allegation Three, “The Board violated Tex. Educ. Code §44.031 and Tex. Loc. Gov’t Code Ch. 171 and Ch. 176, pertaining to contract procurement and conflict of interest laws, when a spouse of a trustee performed construction services for a District weight room without a contract or insurance, and without abiding by all conflict of interest legal requirements” is substantiated. Despite the Board receiving recent prior legal advice on conflicts of interest, the District contracted with Trustee/Board President Roberts’ Husband for major construction services on a new school athletic weight room facility, while violating several contract procurement and conflict of interest laws. Following the Board’s initial discussions regarding the hiring of a trustee’s spouse for the weight room project, the Board, including Trustee/Board President Roberts, appointed the Trustee/Board President’s Husband to serve on a construction subcommittee for the weight room, and delegated authority over the weight room to the subcommittee. The subcommittee, also comprised of two board members, including the board vice president, then attempted to fraudulently circumvent the competitive sealed board-selected method for contract procurement for construction services for the weight room, by having prospective vendors join a purchasing cooperative for construction supplies and materials.

While serving on the subcommittee, the Trustee/Board President Roberts’ Husband attempted to bribe a District employee in cash payments and equipment to obtain copies of competitive bids for his personal use. The Trustee/Board President Roberts’ Husband, who had never owned a construction business, then formed a construction business for the purpose of contracting with the District and subsequently joined a purchasing cooperative for supplies and

materials. Soon thereafter, the Board subcommittee allowed the Trustee/Board President's Husband to complete major construction services for the weight room without insurance, a contract and without the timely submission of signed conflict of interest documents for both the Trustee/Board President and her Husband. After work had already been initiated, the District then awarded a contract for \$48,449.35 for concrete work to Trustee/Board President Roberts' Husband. This resulted in multiple payments to the Trustee/Board President's Husband over a five-month period in total of \$69,214.85.

Tex. Loc. Gov't Code Chs. 171 and 176⁸³ define conflict of interest disclosure requirements for public officials which include school board members. Conflict of interest law seeks to prevent conflicts between the personal financial interests of district officials and their public duties.

Chapter 171⁸⁴ requires that if a school board member, or a first-degree relative of a school board member has a substantial interest in a business entity that a school district does business with, the school board member must take some steps to disclose this interest. A school board member has a substantial interest in a business entity when the member or his or her first-degree relative:

- Owns 10% or more of the voting stock or shares of the business entity;
 - Owns either 10% or more or \$15,000 or more of the fair market value of the business entity;
- or
- Received 10% or more of his or her gross income for the previous year from the business entity.

⁸³ See Appendix C

⁸⁴ See Appendix C

A board member must also take steps to disclose a substantial interest in a board matter involving real property, which occurs when the member or his or her first degree relative has legal or equitable ownership with a fair market value of \$2,500 or more in the real property.

Chapter 171 requires board members to disclose the interest through filing an affidavit and abstaining from further participation in the matter. A board member with a substantial interest must file an affidavit stating the nature and extent of the board member's interest in the business entity or real property before a vote or a decision on any matter involving the business entity or the real property. If the board's action will have a special economic effect on the business entity or the real property's value that is distinguishable from the effect on the public, the board member with the substantial interest must also abstain from further participation in the official decision-making process. A board member may not vote on the matter.

As detailed in Findings of Fact 15, 16, 17, 32, and 37, the Board violated Tex. Loc. Gov't Code Ch. 171 when the Board failed to ensure that the Trustee/Board President, as a local government officer, filed an affidavit stating the nature and extent of her relationship with her Husband (and later her Husband doing business as Rafter C. Construction) before a vote or a decision on any matter involving Mr. Roberts. The Trustee/Board President did not file an affidavit disclosing her substantial interest in her Husband's business, as required by Tex. Loc. Gov't Code Ch. 171 until well after the Board voted and made decisions relating to Mr. Roberts.

As detailed in Finding of Fact 17, the Board violated Tex. Loc. Gov't Code §171.004(a) by allowing Trustee/Board President Roberts to vote in favor of her husband's appointment onto the construction subcommittee, even after her husband was being considered for a contract for the weight room. The Trustee/Board President's Husband's position on the subcommittee placed him in a favorable position to directly influence the subcommittees' selection of particular construction

delivery methods; what materials would be used; and which vendors would be awarded a contract for the weight room.

As detailed in Findings of Fact 15, 17, 32, 35, and 40, the Board violated Tex. Loc. Gov't Code §171.004(a) by allowing a trustee to continue to partake in voting, discussions and deliberations pertaining to the weight room construction project even after the trustee's spouse entered into contract with the District.

Chapter 176⁸⁵ requires local government officers, in this case, school board members, to disclose relationships with certain district vendors. Local government officers include school board members who exercise discretion in the planning, recommending, selecting, or contracting of a vendor. Local government officers must file a sworn disclosure statement using Form CIS with respect to a district vendor if: (1) the vendor has entered into a contract with the district or the district is considering entering into contract with a vendor, and (2) the vendor provides certain income or gifts to the officer or first degree relatives of the officer. The local government officer must file Form CIS with the District's records administrator by 5 p.m. on the seventh business day after the official becomes aware that there is an interest to disclose. Violating the disclosure requirement is a Class A, B, or C misdemeanor, depending on the value of the contract.

As detailed in Finding of Fact 28, Trustee/Board President Roberts, with the knowledge of board members serving on the construction subcommittee (including the board vice president), violated Tex. Loc. Gov't Code Ch. 176 when the Trustee/Board President and her Husband failed to sign conflict of interest disclosure documents by 5 PM on the seventh business day after the Trustee/Board President was aware that there was an interest to disclose. With the knowledge of board members, including those serving on the construction subcommittee, the Trustee/Board

⁸⁵ See Appendix C

President did not file a Local Government Officer Conflicts Disclosure Statement (Form CIS), and her Husband did not file a vendor Conflict of Interest Questionnaire (Form CIQ) until well beyond the seventh business day the official became aware that there was an interest to disclose.

According to Tex. Educ. Code §44.031(a)⁸⁶ Purchasing Contracts, all school district contracts for construction services shall be made by a method provided by Chapter 2269, Government Code or an interlocal contract (including a purchasing cooperative), depending on which method will provide the best value to the district.

The Texas Local Government Code defines a local cooperative organization as “an organization of governments established to provide local governments access to contracts with vendors for the purchase of materials, supplies, services, or equipment.” Tex. Loc. Gov’t §271.101(2).

As detailed in Findings of Fact 29 and 33, the Board attempted to circumvent Tex. Educ. Code §44.031(a)(5) by allowing a Board subcommittee to award a \$48,449.35 contract to Trustee/Board President Roberts’ Husband, a subcommittee member, and then by later paying a total of \$69,214.85 to the Trustee/Board President’s Husband for services. The strategic misrepresentation and underestimation of the actual cost of services during the contract approval process resulted in an excess payment of \$20,765.50 over the appropriated amount of \$48,449.35 (the agreed upon amount as stated in the contract between the District and Rafter C. Construction). As detailed in Finding of Fact 29, the Board violated Tex. Educ. Code §44.031(a) as the use of a purchasing cooperative in this case did not provide the best value to the District which is evident by the significant cost overrun in excess of the appropriated amount of \$48,449.35 as agreed upon in the contract between the District and Rafter C. Construction.

⁸⁶ See Appendix C

As detailed in Findings of Fact 23, 25, 26, and 27, the Board violated Tex. Educ. Code §44.031 by awarding a contract to a Board subcommittee member without going through the appropriate contract procurement process, and after work had already been completed (and at the time, without the insurance required by Tex. Gov't Code §2269.208).

Tex. Educ. Code §44.031(b)⁸⁷ requires that a district, in determining to whom to award a contract, consider the following:

- (1) The purchase price;
- (2) The reputation of the vendor and of the vendor's goods or services;
- (3) The quality of the vendor's goods or services;
- (4) The extent to which the goods or services meet the district's needs;
- (5) The vendor's past relationship with the district;
- (6) The impact on the ability of the district to comply with laws and rules relating to historically underutilized business; and
- (7) The total long-term cost to the district to acquire the vendor's services.

As detailed in Finding of Fact 22, 26, and 29, the Board violated Tex. Educ. Code §44.031(b) by awarding a contract to Trustee/Board President Roberts' Husband who had never owned a construction business prior to the project, who had no credentials to perform such services, and without considering (a) the reputation of the vendor and of the vendor's goods or services pertaining to construction services; (b) the quality of the vendor's construction goods or services; (c) the vendor's past relationship with the district; (d) the impact on the ability of the district to comply with laws and results relating to historically underutilized businesses; (e) the total long-

⁸⁷ See Appendix C

term cost of the district to acquire the vendor's goods or services and; (f) other businesses more qualified to perform the same construction services at a comparable purchase price.

Furthermore, the use of a purchasing cooperative in this case would not have offered the best value to the District as Trustee/Board President Roberts' Husband was inexperienced and therefore less qualified to perform the same construction services at a comparable purchase price. It is also clear that the use of the cooperative in this case was an act of fraud attempting to circumvent procurement laws intended to provide the best value of the District. As a result, it is unconvincing that the use of a cooperative diminished the need to obtain the best value through traditional procurement methods.

The Trustee/Board President's Husband's late purchase of insurance is further evidence that the use of a purchasing cooperative and inexperienced vendor did not provide the best value to the District.

Therefore, there is sufficient reason to believe that the District, by entering into contract with a Trustee/Board President's Husband, violated contract procurement laws by: circumventing the competitive bidding process through the use of a purchasing cooperative that did not offer the best value to the District; strategically misrepresenting and underestimating the actual cost of services resulting in significant excess payments above the original appropriated amount; and using a less than qualified vendor to perform such services.

TEA finds that Allegation Three, "The Board violated Tex. Educ. Code §44.031 and Tex. Loc. Gov't Code Ch. 171 and Ch. 176, pertaining to contract procurement and conflict of interest laws, when a spouse of a trustee performed construction services for a District weight room without a contract or insurance, and without abiding by all conflict of interest legal requirements" is substantiated.

Findings of Fact for Allegation Four

One or more members of the KISD Board destroyed, or withheld, electronic evidence pertaining to matters in this SAI, and one or more board members requested that other District employees destroy evidence, in violation of Tex. Gov't Code Ch. 552.⁸⁸

The following findings of fact are a result of a review of documents submitted by KISD, a review of text messages between board members and District staff, and interviews of District staff.

1. On December 5, 2019, board meeting minutes⁸⁹ show that a representative from Arrow Educational Services, Inc. (ARS) conducted a “Team 8 Training” with the Board. Trustees Roberts, Gilbert, Rankin, Crow, Kiser, and Page were present; Trustee Clamon was absent. Per meeting minutes, the ARS representative addressed the issue that “emails and text messages regarding school business are public record.”
2. On May 19, 2020, TEA submitted a request for information to KISD for phone text message communications between KISD board members and KISD directors from 2018 to present. In response to TEA’s request for information, Trustees Kiser and Page denied having any text messages with any director at KISD and did not produce any text messages responsive to this request.⁹⁰
3. Trustee Rankin provided more than 400 text messages between herself and multiple directors at KISD.⁹¹ Of the text messages produced, more than half were related to District business.

⁸⁸ See Appendix D

⁸⁹ See Board Minutes Pgs. 298-299 – Exhibit 4

⁹⁰ See Board Members’ Text Messages Pgs. 5, 6 – Exhibit 1

⁹¹ See Board Members’ Text Messages Pgs. 7-126 – Exhibit 1

4. Trustee Crow could not produce any text messages responsive to the request. In his written response, Trustee Crow states, “I keep my computer and phone both clean of all excess clutter so I do not retain e-mails or text messages long term.”⁹²
5. Trustee Gilbert also could not produce any text messages responsive to the request. In his written response, Trustee Gilbert states, “I can confirm, as part of my committee assignment, I would have had multiple text conversations with the Director of Maintenance [...] in relation to the weight room construction project. As a habit I treat my text messages just as I do emails and delete old messages to keep my phone cleared out.”
6. Nonetheless, TEA was able to obtain 138 text messages⁹³ between a director and Trustee Gilbert, all of which were related to District business and where a majority of the messages were regarding the weight room project.
7. Trustee/Board President Roberts, in her written response, provided the following: “I am unable to retrieve the text messages requested. I have messaged [KISD Directors] during this time period and would like to use their messages between us if available.”⁹⁴ During an interview with Trustee/Board President Roberts, she stated that majority of the text messages between her and a director were of a personal family matter, unrelated to District business.
8. TEA was able to obtain text messages between Trustee/Board President Roberts and a director.⁹⁵ A review of the text messages revealed that of 172 text messages between the director and Trustee/Board President Roberts, 129 were related to District business and

⁹² See Board Members’ Text Messages Pg. 4- Exhibit 1

⁹³ See Board Members’ Text Messages Pgs. 157-184 – Exhibit 1

⁹⁴ See Board Members’ Text Messages Pg. 2 – Exhibit 1

⁹⁵ See Board Members’ Text Messages Pgs. 127-156 – Exhibit 1

only ten were related to the personal family matter described by Trustee/Board President Roberts.

9. Employee A also admitted in an interview that in the fall of 2019, Trustee/Board President Roberts directed the employee to delete all text messages between herself and the employee, along with messages between the Trustee/Board President's Husband and the employee.
10. Text messages obtained by TEA, despite attempts to destroy them by District agents, show that Trustee/Board President Roberts routinely issued directives to Employee A without obtaining prior board approval and without including the superintendent. A review of text messages between the trustee and Employee A revealed the following⁹⁶:
 - a) On August 6, 2019, and again on June 3, 2019, Trustee/Board President Roberts issued a facilities request by directing Employee A to adjust an air conditioning system in one of the District rooms.
 - b) Again without copying the superintendent, on February 10, 2020, Trustee/Board President Roberts directed Employee A to contact an insurance company regarding a school concession stand.
 - c) On October 5, 2019, at 10:15PM, instead of contacting local law enforcement or the superintendent directly, Trustee/Board President Roberts questioned Employee A about a security issue pertaining to students who were seen at a school football field after hours.
 - d) From 2019-2020, on at least ten separate occasions, Trustee/Board President Roberts asked Employee A to call the Trustee/Board President privately without including the

⁹⁶ See Board Members' Text Messages Pgs. 127-157 – Exhibit 1

superintendent in any of these private conversations and without disclosing the nature of these conversations.⁹⁷

11. Text messages obtained by TEA reveal that on several occasions, Trustee/Board President Roberts, while discussing District business, used inappropriate language during her private text message conversations with Employee A. Specifically,

a) On January 14, 2019, Trustee/Board President Roberts stated the following in her text message to the employee, “Ridiculous...I’m pissed...BS excuses. Absolutely ludicrous...I’m so angry I’m shaking.”

b) On February 11, 2019, in response to a text message from the employee in which the employee states, “She’s [unnamed] lost,” Trustee/Board President Roberts responded, “Stupid.” In a follow-up message, the Trustee/Board President wrote, “I just showed my tail....#sorrynotsorry!!”

12. Text messages from the Trustee/Board President’s Husband revealed several violations of contract procurement law:

a) A text message from Trustee/Board President Roberts’ Husband to Employee A provided evidence to show that the Trustee/Board President’s Husband had completed construction services prior to a signed contract and before conflict of interest disclosure forms were filed. On March 18, 2019, Mr. Roberts sent a text message to Employee A stating, “Concrete Thursday.” A March 18, 2019 maintenance report to the Board confirmed this by announcing that concrete for the weight room sidewalks and driveways

⁹⁷ Employee A reported during an interview that the Board President makes routine personal phone calls to the employee. In fact, as soon as Employee A was hired, the Board President called the employee at least thirty times in a single week to discuss District matters.

would be poured on Thursday, March 21, 2019.⁹⁸ The contract was not signed until March 26, 2019 after work had already been initiated.

b) From March 26-27, 2019, the Trustee/Board President Roberts' Husband texted several times about the status of a check for concrete construction services that had already been completed prior to the execution of a contract.

c) On several occasions, Trustee/Board President Roberts' Husband requested copies of bids for construction jobs related to the weight room. In a series of text messages⁹⁹ regarding sprinklers, dated December 27, 2018, Mr. Roberts writes, "Send me a copy also. Did Alvin berry bid job." In another text message,¹⁰⁰ Mr. Roberts writes, "Make sure I get a copy of all bids before Jerry or at same time I don't want to wait for him thanks." On January 2, 2019, Mr. Roberts again asks if Alvin Berry¹⁰¹ submitted a bid for sprinklers.¹⁰² On January 18, 2019, Mr. Roberts then asks Employee A to provide him a copy of bids for HVAC units.¹⁰³

Analysis of Allegation Four

TEA finds that Allegation Four, "One or more KISD board members destroyed, or withheld, electronic evidence pertaining to matters in this SAI, and that one or more board members requested that other District employees destroy evidence in violation of Tex. Gov't Code Ch. 552" is substantiated. Board members admitted that they routinely destroy text messages on their privately owned devices, including messages pertaining to District business. A District employee also admitted that Trustee/Board President Roberts ordered the employee to destroy the

⁹⁸ See Board Minutes Pg. 281 – Exhibit 4

⁹⁹ See Rafter C. Construction Documents Pg. 488 – Exhibit 6

¹⁰⁰ See Rafter C. Construction Documents Pg. 489 – Exhibit 6

¹⁰¹ The Board Presidents' Husband's interest in "Alvin Berry" is unclear

¹⁰² See Rafter C. Construction Documents Pg. 489 – Exhibit 6

¹⁰³ See Rafter C. Construction Documents Pgs. 491-493 – Exhibit 6

employee's text messages between the Trustee/Board President, her spouse and the employee after TEA gave notice and initiated its investigation at KISD.

Tex. Gov't Code §552.004(b)¹⁰⁴ requires that a current or former officer or employee of a governmental body who maintains public information on a privately owned device shall forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by Subsection (a); or preserve the public information in its original form in a backup or archive and on the privately owned device for a time described under Subsection (a). As stated in Tex. Gov't Code §552.351¹⁰⁵, a person commits an offense if the person willfully destroys, mutilates, removes without permission as provided by this chapter of the Government Code, or alters public information.

While the criminal liability of a given act is outside the scope of this investigation, it should be noted that Tex. Gov't Code §552.353¹⁰⁶ states that an officer for public information, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide copying of, public information to a requestor. An offense under this section is a misdemeanor punishable by: a fine of not more than \$1,000; confinement in the county jail for not more than six months; or both the fine and confinement. An additional observation is that, per Tex. Pen. Code §37.10, a person commits the offense of tampering with a governmental record if he or she intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record and that this offense is a felony of the third degree if the actor's intent is to defraud another.

¹⁰⁴ See Appendix D

¹⁰⁵ See Appendix D

¹⁰⁶ See Appendix D

As detailed in Finding of Fact 1, the Board received training from Arrow Educational Services, Inc. during which a representative addressed the issue that emails and text messages regarding school business are of public record. Despite receiving training, the Board violated Tex. Gov't Code §552 when trustees purposefully destroyed District-related text messages on their privately owned devices.

As detailed in Findings of Fact 4, 5 and 7, KISD trustees violated Tex. Gov't Code §552.004 when several board members willfully destroyed text messages pertaining to District business on their privately owned devices. Trustees Crow, Gilbert and Roberts each admitted to routinely destroying text messages on their personal cell phones. Nonetheless, TEA was able to confirm that Trustee/Board President Roberts and Trustee Gilbert did in fact have text messages pertaining to District matters. KISD board members also failed to give access to public information to TEA following TEA's request for information in an effort to withhold or destroy information relevant to this SAI.

As detailed in Finding of Fact 9, Trustee/Board President Roberts committed an offense under Tex. Gov't Code §552.351, when she directed Employee A to destroy the employee's text messages between the Trustee/Board President, her spouse and the employee following TEA's SAI Notice to KISD. Findings of Fact 10, 11 and 12 provide a better understanding as to why Trustee/Board President Roberts would direct Employee A to destroy text messages from herself and her husband.

Therefore, TEA sustains that Allegation Four, "One or more KISD board members destroyed, or withheld, electronic evidence pertaining to matters in this SAI, and that one or more board members requested that other District employees destroy evidence in violation of Tex. Gov't Code Ch. 552," is substantiated.

Summary

The findings in this report establish that the KISD Board of Trustees misused its position to assert control and power, creating turmoil and conflict that hindered the District's ability to function efficiently and effectively, and therefore cultivating a toxic relationship between the superintendent and Board characterized by tension and conflict. Specifically, the KISD Board of Trustees consistently act individually on behalf of the Board, exceeding the scope of their authority, regularly interfering in the day-to-day operations of the District, and ultimately impeding the superintendent's ability to serve as the chief executive officer of the District. The Board President's frequent threats of violence, use of racial slurs and other forms of deplorable language also appear to be the norm at KISD. Additionally, the District committed several contract procurement and conflict of interest violations when the Board President's spouse performed construction services for a District weight room without a contract, insurance, and without the Board President abiding by all conflict of interest legal requirements. Furthermore, several KISD board members committed serious public information violations when the trustees destroyed electronic evidence pertinent to this SAI, despite the Board receiving training for public information record retention requirements.

Recommendations for Sanctions

Based on the findings, the SIU will recommend to the Commissioner of Education that the accreditation status of the District be lowered from accredited to accredited warned and to appoint a Board of Managers that will work with KISD to identify issues that led to non-compliance and report to the agency on the development of a corrective action plan to address the issues stated in this report, in accordance with Tex. Educ. Code § 39.057 and Chapter 39A.

The above recommendation will enable KISD to function in the best interest of students, while policies and procedures can be implemented to address the issues raised in this investigation. TEA reserves the right to implement all available interventions and sanctions under Tex. Educ. Code, Chapter 39, and 19 Tex. Admin. Code Chapter 97, to address the current, or any future deficiencies identified for KISD. Upon a review of the Final Investigative Report, the Commissioner will determine if any sanctions are necessary. Those sanctions, if any, will be communicated directly to the superintendent of KISD.