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VIA EMAIL AND USPS FIRST CLASS MAIL

Tina Meade
Director of Investigations & Compliance
Office of Student Civil Rights
Seattle Public Schools
cmmeade@seattleschools.org

Re: Complaint of Christina Ellis, Thornton Creek

Dear Ms. Meade:

You retained me to investigate a harassment, intimidation, and bullying (HIB) and retaliation complaint filed by parent, Christina Ellis, whose son was a student at Thornton Creek Elementary during the 2017-18 school year. The complaint was the subject of a previous investigation in 2019 but after appeal, the parties agreed to a further investigation on the issues of whether the HIB Ms. Ellis experienced was motivated by race and whether Ms. Ellis' son was retaliated against as a result of her participation on the principal hiring committee and/or advocacy on issues of race and equity.

In the course of my investigation, I reviewed Seattle Public Schools policies and procedures, interviewed relevant staff at Thornton Creek, and reviewed documents provided or referenced by the complainant, witnesses involved in the investigation, and Seattle Public Schools. This is my investigative summary report.

I. INVESTIGATIVE PROCEDURE - PERSONS INTERVIEWED

- A. Christina Ellis, Former Parent-Complainant
- B. David Simonton, Parent
- C. Evan Briggs, Parent
- D. Lisa Calvert, Teacher (with SEA Representative, Jose Vargas)
- E. Nora Sipes, Teacher (with SEA Representative, Jose Vargas)
- F. Mark Fung, Teacher (with SEA Representative, Jose Vargas)

- G. Paige Reischl, Parent
- H. Christina Pizana, Parent
- I. Jon Gasbar, Principal
- J. Dr. Helen Joung, Director of Schools
- K. Stan Damas, Former Executive Director of Labor and Employee Relations
- L. Dr. Concie Pedroza, Chief of Student Support Services

II. INVESTIGATIVE PROCEDURE - EVIDENCE REVIEWED

- A. Appeal of Formal Complaint, 4/15/19
- B. Seattle Public Schools Policies and Superintendent Procedures
- C. Thornton Creek School Parent Group Bylaws
- D. Site Council Meeting Minutes
- E. Email to Lisa Calvert re. TC Hiring Process, 3/9/18
- F. Email from Kristin Bailey re. I will not be your principal, 3/29/18
- G. Email from Virginia Allemann re. TC principal selection process, 4/2/18
- H. Email from Stacy Earlywine re. new site council leadership, 4/25/18
- I. Email from Nora Sipes re. Get Involved in Site Council, 4/30/18
- J. Email from Stacy Earlywine, 5/6/18
- K. Email from LaChrista Borgers re. Clarification, 5/18/18
- L. Email from LaChrista Borgers re. Meeting mediation request, 5/18/18
- M. Email from LaChrista Borgers re. Clarification, 5/21/18
- N. Complaint filed by Christina Ellis, incl. additional pages and timeline, 6/8/18

- O. Letter from John Miner to Christina Ellis, 6/8/18
- P. Letters to Christina Ellis from Clover Codd, 4/5/19
- Q. Investigative Report by Brett Rogers, 12/14/18¹
- R. Emails to and from Nora Sipes, 2/13/18
- S. Email from Nora Sipes to Christina Ellis, 2/27/18
- T. Email from Nora Sipes re. K speech meltdown, 3/6/18
- U. Email to Christina Ellis from Kristen Bailey re. K. in PE, 3/16/18
- V. Email from Nora Sipes re. This week, 3/19/18
- W. Email from Nora Sipes re. K. swinging a metal ruler at Kevin's head, 3/22/18
- X. Email from Nora Sipes re K. at recess (Access Program consideration), 3/26/18
- Y. Email from Kristin Bailey to Nora Sipes re K. at recess, 3/26/18
- Z. Emails from Christina Ellis re. K. needs to talk to you about his words, 3/26/18
- AA. Emails from and to Kate Daderko re. K. at recess, 3/28/18
- BB. Emails from and to Kristin Bailey from Nora Sipes, incl. email from Jen Sclafani, 3/28/18
- CC. Emails to and from Kristin Bailey re. Follow-Up, 3/29/18
- DD. Email from Kristin Bailey re. Good news!, 4/5/18
- EE. Emails from and to Christina Ellis re. Follow up from yesterday, 5/2/18
- FF. Temporary Safety Plan, 5/2/18
- GG. Email from Kristin Bailey re. Update, 5/3/18
- HH. Email from Nora Sipes to Kristen Bailey re. Our routine, 5/8/18

¹ Although marked as a "Draft," this is the only version of the report that was prepared and distributed.

- II. Email from Alissa West re. K. today, 5/8/18
- JJ. Emails from Kristin Bailey re. KE, 5/9/18-5/10/18
- KK. Email from Alissa West re. K.'s day, 5/9/18
- LL. Email from Kristin Bailey re. FYI, 5/9/18
- MM. Email from Kristin Bailey re. This afternoon, 5/10/18
- NN. Email from Michael Bylsma re. K. FBA meeting, 5/11/18
- OO. Email from Nora Sipes re. Red Folder/SBA, 5/14/18
- PP. Email to and from Christina Ellis and Kristin Bailey re. NDA Letter, 5/14/18
- QQ. Email from Nora Sipes re. SBA testing this week, 5/14/18
- RR. Final Spring 2018 Facts Document, April 2019
- SS. Email from Lori Miller re. Thank You too, 4/27/18

III. SEATTLE PUBLIC SCHOOLS POLICIES AND PROCEDURES

The following facts are not in material dispute, unless otherwise noted.

Ms. Christina Ellis filed her complaint alleging racially motivated harassment, intimidation, and bullying (HIB) by staff at Thornton Creek and retaliation against her son following her participation on the principal hiring committee. **Ex. A.** As such, the following Seattle Public Schools (SPS) policies and regulations are implicated:

i. Seattle Public Schools Policy Nos. 5207 and 5010

Because Ms. Ellis asserts she was harassed and sought to be removed from Site Council in her capacity as a volunteer for Thornton Creek due to her race, review of her complaint would fall under SPS Policy No. 5207. Policy No. 5207 defines Harassment, Intimidation, and Bullying, in part as, “written messages or images (including those that are electronically transmitted), verbal comments, or physical acts” that, among others, “have the effect of substantially interfering with an employee’s or volunteer’s work environment,” are “so severe, persistent, or pervasive that [they] create[] an intimidating or threatening work environment, or “have the effect of substantially disrupting the

orderly operation of the work place....” SPS Policy No. 5207. The policy further dictates that HIB motivated by race will be investigated under the District’s Non-discrimination policy, Policy No 5010, which prohibits discrimination based on race. **Id.**; Policy No. 5010. The corresponding Superintendent Procedure 5010SP also includes an anti-retaliation provision stating that, “no employee or volunteer may engage in reprisal or retaliation against a victim, witness, or other person who brings forward information about an act of discrimination. Reprisal or retaliation is prohibited and will result in appropriate discipline.” Superintendent Procedure 5010SP.

ii. Seattle Public Schools Policy No. 3210

Ms. Ellis’s complaint that her son was retaliated against because of her advocacy on race and equity issues and/or participation on Site Council falls under SPS’s Nondiscrimination policy applicable to students, Policy No. 3210. The policy affirms SPS’s commitment to nondiscrimination in all aspects of its educational programs and declares that discrimination “will not be tolerated and constitute[s] grounds for immediate disciplinary action.” Policy No. 3210. Policy No. 3210 further states that, “retaliation against any person who makes or is a witness in a discrimination complaint is prohibited and will result in appropriate discipline. The district will take appropriate actions to protect involved persons from retaliation.” **Id.** The Superintendent Procedure applicable to complaints of discrimination makes clear that, “No employee or volunteer may engage in reprisal or retaliation against a victim, witness, or other person who brings forward information about an act of discrimination. Reprisal or retaliation is prohibited and will result in appropriate discipline.” Superintendent Procedure No. 3210SP.B.

iii. Seattle Public Schools Policy No. 5245

Although SPS’s Anti-Retaliation Policy No. 5245, and its attendant Superintendent Procedure No. 5245SP, does not govern Ms. Ellis’s complaint because it is limited to staff complaints, it does include a definition of retaliation that offers guidance. Under Superintendent Procedure 5245SP, retaliation means any “retaliatory action taken because an employee has, in good-faith (a) reported violations or suspected violations of District policies or procedures or (b) has engaged in protected activities.” Protected activities is defined as including, filing a complaint, performing required job duties, and advocating for legal rights of self or student.

IV. RELEVANT BACKGROUND

The following facts are not in material dispute, unless otherwise noted.

Thornton Creek Elementary School in the Wedgewood area of the City of Seattle is a self-described “expeditionary learning school” in the Seattle Public Schools district. According to Thornton Creek’s stated mission, it is to support and encourage the development of a school community that in part: “Addresses the social, emotional, and intellectual needs of the child” and “supports a collaborative, multicultural, experiential educational philosophy.”

As an option school, the alternative education program offered at Thornton Creek involves greater support, participation, and “decision-making power” from families than would be expected at a traditional school. Thornton Creek is one of the schools in the district that utilizes a Site Council as a governing model. SC is comprised of parents, teacher, and staff, but only parents serve as officers, which are limited to the Chair, Vice-Chair, and Treasurer. Terms are for one year beginning in June, and “if more than one parent is interested in being nominated for a position, then an election will be held by the end of the school year.” See Thornton Creek Parent Group Bylaws, **Ex. C**. SC also has several committees, including the Equity, Diversity, & Inclusion (“EDI”) committee.

For the 2017-18 school year, Christina and Paul Ellis enrolled their 8 year-old son, K., for the first time at Thornton Creek. K. was assigned to the 3rd grade classroom of Nora Sipes (Scully). The Principal for the 2017-18 school year was John Miner, Vice Principal was Kristin Bailey, and the Chair of SC was Evan Briggs. At the time of the first SC meeting in September, there was no official Vice-Chair, so the previous Chair, Stacy Earlywine, stayed on as interim to support the transition. Site Council Meeting Minutes, September 2017, **Ex. D**. Although the bylaws state terms “shall” be for one year, many officers hold positions for multiple years due to lack of parent interest. By January 2018, however, the lack of a Vice-Chair was becoming a challenge, as noted in the meeting minutes: “Serious volunteer needs that we need to fill out soon - * We need a vice chair, Stacy has been filling in but we want to let her off the hook.” **Id.**, January 2018. In February 2018, Christina Ellis was announced as the new Vice-Chair. **Id.**, February 2018. Ms. Ellis had been participating on the EDI Committee and, thus, had been present at the SC meetings that had convened that year. Also discussed at the February 2018 SC meeting was finding a replacement for Principal Miner, who had recently announced his resignation. Mr. Miner informed the SC that he had asked the Superintendent to appoint Ms. Bailey directly to Principal and that this was done “with the support of the staff.” **Id.** He recommended that SC write to SPS in support of his request because “the district is very cautious about appointing principals to option schools.” **Id.** It was later learned that this request was denied. As such, a meeting was held on March 12 to discuss the principal hiring search process. Attendees at this meeting included Helen Joung, Executive Director of Schools, Ms. Ellis, Ms. Briggs, and

staff Lisa Calvert and Virginia Allemann. It is at this meeting that Ms. Ellis is discussed as a member of the hiring committee given her role as a parent in leadership, and as a woman of color.

At the next SC meeting on March 13, they discussed the new Building Leadership Team (BLT) developed to act as the decision-making body for staff. **Id.**, March 2018. Ms. Calvert and Ms. Alleman were announced as co-chairs of BLT, which was also engaged in the principal hiring search given SPS's denial of Mr. Miner's request for direct appointment. BLT reported to SC on SPS's expectations for the hiring committee process, including how many people were needed for the committee, and that SPS expected at least 2 parents with a focus on diversity. **Id.**; see also **Ex. E** (identifying qualifying factors, such as "We are looking for parents who are interested in serving on the interview team who represent the diversity of our school community."). Ms. Ellis and parent Kaora Tanaka were announced as parent representatives for the hiring committee. The hiring committee would conduct interviews and "decide on top 2 or 3 candidates" who would be sent to the Superintendent "who makes final decision." **Id.** In contrast to Mr. Miner's comments at the prior meeting, it was cautioned that there should be no calls or emails to the district advocating for Ms. Bailey specifically, as that will "make the process look biased or unfair; in which case [the] Superintendent will either scrap [the] process and start over or appoint a random person." **Id.**

The hiring committee conducted interviews with principal candidates, including Ms. Bailey, on March 24. The hiring committee included Ms. Ellis, teacher Mark Fung, Ms. Calvert, Ms. Allemann, and parent, Ms. Tanaka. On March 29, Ms. Bailey sent an email to all staff, SC leadership, and Ms. Earlywine with the subject header "I will not be your principal" letting them know she had not been selected to replace Miner as Principal. **Ex. F.** By all accounts, this caused an immediate response in the school community. Staff requested a "freeze" on the hiring of the new principal and expressed concern about the "the process and the actual interviews." **Ex. G.** That request was rejected and on April 16, the district formally announced that Jonathan Gasbar had been selected to lead Thornton Creek.

Less than two weeks after the formal announcement, staff and a group of parents began to mobilize to oust SC leadership who they considered responsible for why Ms. Bailey did not obtain the principalship. In particular, sights were set on ensuring Ms. Ellis would not move up to Chair, despite that this was the typical process for SC leadership at Thornton Creek. Indeed, although she herself had held a leadership position for two years, Ms. Earlywine worked with staff to collaborate on how to prevent

Ms. Ellis from doing the same. In an email on April 25, 2018, to the teachers with whom she was working, Ms. Earlywine stated:

A group of us are beginning to think about how to proceed with a call for nominations for new site council leadership. After talking with Kristin yesterday, I think the only way out of this is for both of them to be out of leadership ASAP, which likely will have to be the end of this year, but could be immediately. I don't yet know how to do this without starting an all out war between those of us who see what trouble Christina is causing and those who think she's cherry pie and is the victim in this situation "having been through a lot". We really cannot accuse her of the things we believe to be true.

Ex. H. This email was received by Ms. Calvert, LaChrista Borgers, Mr. Fung, Ms. Allemann, and Maria Callahan, and confirms that Ms. Ellis was singularly thought of as the reason why Ms. Bailey was not selected as Principal. See also, **Ex. J.** (“[W]e certainly can't have C[hristina] continue. I have less warm fuzzies with regard to her and what seems to be ongoing information leaking to Helen [Joung]” and “Can we live with the two of them for another year? And what then if Christina wants to become chair? Which is not written in the bylaws *but has certainly been the unofficial expectation* since before I became chair.”). Staff, including Ms. Sipes who had Ms. Ellis' son in her class, began sending out communications to their classrooms advising that “the term for Current Site Council leaders is up on May 31st” and inviting parents to “get involved” to “make a difference in our school community.” **Ex. I.** Thereafter, by all accounts, the relationships between SC and BLT and staff deteriorated over whether and how elections should be held.

On May 8, 2018, a regular SC meeting was held. **Ex. D,** May 8, 2018, Regular Meeting minutes. Minutes reflect a large staff turnout and incoming Principal Jonathan Gasbar also attended. **Id.** Principal Miner noted there was “lots of discussion about site council and bylaws” but suggested “small group of BLT and SC leadership” to discuss. **Id;** see also, **Ex. N,** Timeline (“John Miner opens the SC meeting by asking participants to refrain from discussing an election, and instead advocates for a smaller meeting between staff and current SC leadership. There are an unusually high number of teachers in attendance that night, and they appear visibly distraught after John's announcement.”). Three weeks later, a Special Meeting of SC called by the committee chairs, not Ms. Briggs or Ms. Ellis, was held to discuss SC elections and bylaws. Principal Miner acknowledged that the school “had not had site council elections in a long time.” At the meeting on May 29, Ms. Briggs reported that she had been “told that the commitment would be for two years and then ideally the vice chair would take over when [she] left,” which made the current push for elections “an effort to remove people

vs. just having elections.” **Ex. D**, May 29, 2018, Special Meeting Minutes. Ms. Briggs also referenced a conversation she had with a parent who expressed that “it was about Christina and that people didn't feel safe with her, because she allegedly barged into John and Kristin's offices yelling.” Ms. Briggs noted “this feels like institutional racism.” **Id.** At this meeting, Ms. Borgers read a prepared statement on behalf of all staff that expressed being made to feel “unsafe to speak up.” **Id.** The minutes do not identify who staff felt unsafe with, or how or why they felt unsafe. There is no dispute that Ms. Borgers read the statement on behalf of all the staff at Thornton Creek. Ms. Borgers was careful to distinguish when she was speaking on behalf of TC staff, BLT, or both. See, **Ex. K** and **Ex. L**, contra **Ex. M**. Indeed, in one email, Ms. Borgers asserted “on behalf of BLT and Staff” that Staff felt “transparent communication and a return to our code of conduct” were what was needed to move forward. **Ex. M**. She did not expressly state what codes of conduct staff believed had been violated and by whom.

On June 8, 2018, Ms. Ellis (and Ms. Briggs in part) filed an Harassment, Intimidation, and Bullying complaint alleging Ms. Sipes, her son’s teacher, and other Thornton Creek staff bullied and retaliated against her for her perceived role in Ms. Bailey not being selected as the next Principal. **Ex. N**. Ms. Ellis also requested her son’s records be expunged of any suspensions and related records. On the same day, Principal Miner sent Ms. Ellis a letter apologizing for the “hurtful” and “offensive” things staff said to Ms. Ellis at the Special Meeting. **Ex. O**.

Relationship between K. and his academic support system

K.’s 3rd grade teacher, Nora Sipes, regularly reported K.’s behavior to Ms. Ellis by email (until Ms. Ellis requested in early May 2018 not to receive the reports). Those reports are summarized below. K.’s academic support team included Alissa West, IEP Case Manager, and Maria Callahan, Art Teacher:

On February 13, 2018, Ms. Sipes sent Ms. Ellis an email advising her of the “good news” that K. was “playing at recess and participating in a number of activities with classroom peers and other students.” **Ex. R**. She also advised that K. had taken a pencil out to recess and used it as a “weapon” by slashing at kids with it. She also reported, however, that this was not limited to K. and that other students had also taken pencils out to recess and inappropriately used them. There is no indication that this issue came up again.

Less than two weeks later, on February 26, Ms. Sipes reported K. had been “extremely disrespectful” to her. **Ex. S**. Although she noted that it was the first day after break, which “is always a transition time for all the students” and that she had to

repeat instructions to the class as a whole, she reported that K.'s behavior was "extraordinary." Specifically, she advised that he was "laying down" and saying he was "disengaged" or would say, "denied" in response to her efforts to include him in the class discussion. She sent him to the office when he started "mimicking" her instruction. She did not report that he was aggressive or had inappropriately touched anyone. Somewhat similarly, on March 6, Ms. Sipes forwarded a report from the speech language pathologist that K. ran from class and called her "bitch." **Ex. T.** Ms. Sipes informs Ms. Ellis that "while the language is something I have not encountered the other behavior is familiar from time to time." **Id.**

On March 16, 2018, Ms. Bailey sent a lengthy email to Ms. Ellis reporting her observations of Ms. Sipes' PE class. **Ex. U.** Ms. Bailey reported that K. had been hit in the nose by another student, but had not fought back, which she praised. Ms. Bailey detailed K.'s interactions with other students and the "good humor" and "excellent sportsmanship" exhibited by K. This was contrasted with the behavior of several other students referenced in the email. A few days later, Ms. Sipes sent Ms. Ellis an email summarizing a conversation with K. in which he reported concern about his brother and father. Ms. Sipes closed the email with a smile emoji. **Ex. V.**

By March 22, however, Ms. Sipes was reporting K. as "out of control" and "frightening." In an email that day, Ms. Sipes reported that K. "grabbed a ruler with a metal edge and was running around K***n swinging and chopping near K***n's head." **Ex. W.** The email continues to report that "the reaction of the class was shock and fear," which caused K. to become overwhelmed and run out of the class down the hall where he locked himself in the bathroom. Although there was reportedly another student in the bathroom, there is no indication that he was aggressive to that student. But, Ms. Sipes states, "this event was so out of control and the fact that he could not follow safety directions from me was frightening." **Id.**

Things continued to devolve and on Monday, March 26, 2018, Ms. Sipes, unsolicited, sent Ms. Ellis an email informing of an incident at school that morning in which K. hit a classmate in the face, as well as calling him "liar" and "ugly little short stack." **Ex. X.** This was followed by a recommendation that K. be placed in the Access program which would provide greater direct support and resources, "due to the level of support that K. needs." This text was in bold and indicated as "high importance." **Id.** In response, Ms. Bailey admonished Ms. Sipes for suggesting a service change without the appropriate process. **Ex. Y.** Ms. Bailey also reiterated that a program change could not be recommended based on an incident "like this or *even a series of them,*" and instead stated they should "keep implementing his plan with fidelity – there are bound to be days where he struggles more than any other like any 3rd grade boy would." **Id.**

Ms. Bailey also noted that K. “often reacts to something that has happened to him,” “doesn’t lash out for no good reason,” and is just “beginning to trust us.” **Id.**

Ms. Sipes, however, sent another email that afternoon stating that K. “needs to write an apology” for earlier ridiculing the student, as well as hitting him. **Ex. Z.** She also reported without specifics that “K. had other issues [] later in the day” and this was evidence to her that “he needs recess support to be successful.” In reply, Ms. Ellis noted that Ms. Bailey had informed them that K. was *not* the aggressor in the incident later in the day, and also reminded Ms. Sipes that she had praised K. only days ago for “not retaliating when he had himself been physically assaulted.” **Id.**

Two days later, on March 28, a teacher sent Ms. Sipes an email informing her that while walking down the hall and bumping into students, K. had “knocked over D.,” a disabled student, and then became argumentative with her when she tried to discuss it with him. **Ex. BB.** Ms. Sipes in turn forwarded the email to Ms. Bailey, Maria Callahan (art teacher), and Alissa West (special education teacher), with a preamble stating that K. became “very angry” with the teacher and called her “horrible little woman” and “liar.” **Id.** Ms. Bailey responded that “This is dangerous” and “I think a natural consequence is that Kienan needs to move though empty hallways.” **Id.** This is contrasted to Ms. Bailey’s email only 2 days prior. Ms. Ellis was not on this email exchange.

On the same day, Ms. Sipes had an exchange with K.’s private counselor, Kate Daderko, in response to Ms. Daderko’s inquiry about whether staff had identified a place where K. could go to “de-escalate” before staff tried to have conversation with him. **Ex. AA.** Ms. Sipes replied that “he may not get the choice of when someone has a conversation with him” and that those teachers “have the interest of their students at the center,” indicating the de-escalation plan may not be implemented with fidelity.

The next day, March 29, Ms. Ellis sent Ms. Bailey an email agreeing that “in-house discipline” could work well for K., but setting the expectation that it would only be used after an incident had been thoroughly investigated and that K. would first be given the opportunity to de-escalate before staff talked with him about it. **Ex. CC.** Ms. Bailey agreed to these expectations and advised that she would ask staff to commit to them as well. **Id.** On April 5, Ms. Bailey sent Ms. Ellis an email reporting that K. “did a good job today” by walking away from conflict with another boy. **Ex. DD.** Thereafter, all seemed ok until May 1, when K. had an incident at school. **Ex. EE.**

Although there are some differing details as to what occurred, the consensus is that K. hit another student with a water bottle. **Id.** Ms. Ellis reminded Ms. West that

“it has been agreed that much of the issue K. has at school is that he feels that he is perceived as the ‘bad’ kid by many adults.” She asked for continuing with the current plan, which would allow K. to go to “his quiet place to de-escalate,” given that there were only seven weeks left in the school year. This understanding was memorialized in a Temporary Safety Plan, which provided for de-escalation, investigation of the incident’s antecedent prior to imposition of consequences, and delaying restorative practices until K. was calm. **Ex. FF.** This is consistent with the prior agreement with Ms. Bailey. In response, Ms. West reported that while they did investigate, “when a student hits another student with a hard object, we do have to consider the rights of all of our students,” which suggests that investigation would be suspended in that circumstance. **Ex. EE.** Ms. West also reported that K. was not able to take a break, and therefore, de-escalate, and that he did not have a defined “quiet place.” Although she had initially requested daily reports of K.’s behavior, by this time, Ms. Ellis had “expressed fatigue at the daily reports” of K.’s negative behavior and requested she not receive them. **Ex. HH.**

Things continued to escalate and the week of May 7 proved pivotal. On Tuesday, May 8, Ms. West reached out with a request to talk as soon as possible because K.’s day included “a number of unsafe and disruptive behaviors,” which she felt could impact the next day. **Ex. II.** Of note, this email was delivered two hours after the May SC meeting at which staff appeared “visibly distraught” at not being able to hold immediate elections to remove Ms. Briggs and Ms. Ellis. **Ex. N.** On Wednesday, May 9, after reviewing video and talking with staff, Ms. Bailey reported to Ms. Ellis about the events of Tuesday following her. **Ex. JJ.** It was reported that K. “took his neighbor’s lunch box and started hitting him in the head and shoulders with it,” and that after the student took the lunch box back, K. went under the table and “started to escalate.” **Id.** Although he was directed to go outside for a break, which was “part of [his] support plan,” he reportedly refused to go outside and instead resumed hitting the student with a lunchbox. Ms. Sipes was eventually able to direct K. outside. As a consequence, K. was given an in-house suspension on Wednesday for the events on Tuesday. **Id.** Both Ms. Bailey and Ms. West, however, reported that he was having a good Wednesday despite the in-house suspension. **Id.**, see also, **Ex. KK.**

The trust between staff and Ms. Ellis had eroded by this point to such a degree that she asked Ms. Briggs to check on K. in class. **Ex. LL.** This disconnect was acknowledged by Ms. Bailey. **Id.** Additionally, Mr. Ellis was now communicating with staff, instead of Ms. Ellis. See **Ex. JJ.**

Things came to a head on May 10 when Ms. Bailey sent Ms. Ellis an email detailing K.’s day and advising that he was being suspended for one day because of his

“unsafe behavior today.” **Ex. MM.** Although his day reportedly started off positively, with K. being “engaged, happy, and communicative,” by the afternoon, things had devolved. **Id.** Even though he initially calmed down when he was ignored by Ms. Bailey, he escalated to “crying and screaming” when the other students went to recess and he was not allowed to go and Ms. Bailey attempted to talk with him about following directions. K. reportedly “picked up a stool and shoved [her] out of the way with it,” “pulled things off the walks, knocked things over like chairs, chest of drawers of art supplies, and the overhead projector,” and “swept things off of counters.” **Id.** “He picked things up and threw them at the walls and at furniture.” While doing this, he said, “If you don’t let me go to recess, I’ll keep destroying the room.” When he was denied, he called them “bitches” and continued to throw things, including a stool at Ms. Sipes. **Id.** The 12-minute incident eventually concluded with K. attempting to hit them with a plastic bin lid, then running out of class where he was found outside. Ms. Bailey and Ms. Sipes eventually allowed him to play alone for a while so he could “de-escalate,” which was consistent with the previously agreed plan.

On May 11, Ms. Ellis removed her son from Thornton Creek. **Ex. NN.** Although K. was scheduled for a Functional Behavior Assessment that same day, it was cancelled. In addition to withdrawing, Ms. Ellis also filed an appeal of both the in-school suspension on May 9 and the out-of-school suspension on May 10. **Ex. PP.** After K. was removed from school, Ms. Sipes provided Ms. Ellis with classwork for K. and also informed her when Smarter-Balance testing would be conducted. **Ex. OO** and **Ex. QQ.**

This investigator is informed that following Ms. Ellis’ complaint (**Ex. N**), all discipline, including the in-house and out-of-school suspensions, was removed from K.’s academic record.

Prior Investigation and Findings

On April 5, 2019, SPS sent Ms. Ellis its findings on her formal complaint. **Ex. P.** In brief, SPS found that Ms. Ellis was subjected to HIB but that there was no evidence the conduct was “was racially motivated,” and that while the evidence gave rise to a “reasonable perception [] that Thornton Creek staff acted in concert to retaliate against your son,” this was limited to the referral to the Access program. The findings did not address whether K. was also disciplined in retaliation for Ms. Ellis’s advocacy on race and equity issues and/or participation on the principal hiring committee.

Ms. Ellis filed an appeal on April 15, 2019, specifically challenging the findings that the sustained HIB was not racially motivated and the failure of the investigation to address whether K.’s suspensions were the result of disability discrimination. **Ex. A.** On

discussion with Ms. Ellis and her counsel, it was clarified that the scope of the complaint was whether the HIB was racially motivated and whether Ms. Ellis' son was retaliated against due to her participation on the principal hiring committee and/or because of her advocacy on issues of race and equity.

Witness Interview Summaries

The complainant, **Christina Ellis**, first joined the Thornton Creek school community for the 2017-18 school year. Thornton Creek is an option school by which slots are distributed through lottery. Ms. Ellis was pleased when both K. and his sister were accepted. Her first incident of concern with her son K.'s teacher, Nora Sipes, was in October 2017 when she pulled him out of class and "berated" him for using the "n-word." After confronting Ms. Sipes, she acknowledged she hadn't asked K. his version of what happened. This indicated to Ms. Ellis that Ms. Sipes lacked cultural competence. She believes that after this incident she was labeled a "race baiter."

With a school population that is 73% White and minimally African-American, she joined the EDI committee and found it to be an "amazing" group. Because EDI had concluded that the only way to get support for the EDI agenda was to get an EDI person on SC, she volunteered when the Chair, Evan Briggs, in January 2018 said she needed someone to step in to the Vice Chair role in Paige Reischl's absence. At the time she volunteered, there had been no other contenders and thus no process. Once she joined SC, she found that parents of color wanted to tell her their stories of race in Thornton Creek. She understands she was the very first person of color to serve on SC leadership.

Her first meeting as Vice Chair was immediately following Principal Miner's announcement that he was resigning. At the same time, the BLT was just getting off the ground. Although SC, as the parent group, and BLT, as the staff group, were supposed to work separately but in tandem, somehow when the principal hiring committee conversations began under the guidance of Dr. Helen Joung, both meetings merged. Ms. Ellis denies having met or communicated with Dr. Joung prior to that meeting. At that first meeting, Ms. Ellis volunteered to be on the hiring committee, but BLT wanted Ms. Briggs. When Dr. Joung pointed out that this would result in an all-White committee, BLT relented. At this same meeting, Ms. Ellis shared the story about Ms. Sipes and the "n-word" incident in October as an example of a microaggression. Ms. Ellis later learned that both Mr. Fung and Ms. Sipes were aware of this and Ms. Sipes feared that she might be subject to discipline or discharge. She was also told that staff believed she had filed a race discrimination complaint when she had not.

Teacher Mark Fung requested a meeting with Ms. Ellis and Ms. Briggs a few days in advance of principal candidate interviews. Mr. Fung told Ms. Ellis, “We need to look at the principal who has experience with expeditionary learning, which is Kristin Bailey. Stop focusing on race and equity until after hiring. Then we can look at EDI.” On the day of the principal interviews, the committee interviewed three candidates, including Ms. Bailey, Mr. Gasbar, and a third. There were 11 committee members total, with 7 from Thornton Creek, and all members of the committee signed confidentiality agreements. During the course of the day, Ms. Bailey sent Ms. Ellis a text message asking how her interview went, which Ms. Ellis found inappropriate.

Less than one week after the interviews concluded, on March 29, Ms. Bailey sent an email to all staff advising that she had not been chosen for the principalship. Ms. Earlywine sent a message “blaming SC leadership” and indicating she knew what the process was that had been followed in the confidential proceedings. In response, Dr. Joung opened an investigation into the potential breach of confidentiality and called everyone into SPS district offices. Because Ms. Ellis had a previous scheduling conflict, she did not attend, which may have added to the impression that she was “working with” the district. At the meeting, the group was cautioned against retaliating against anyone who they thought was responsible for Ms. Bailey not obtaining the position.

Around the same time, on March 26, Ms. Sipes recommended the Access program for K. Ms. Ellis declined and Ms. Bailey reprimanded Ms. Sipes for making a referral outside of protocol. Nevertheless, when she showed up at school later that day, Ms. Ellis reports that Ms. Sipes continued to pressure her to put K. in the program. Ms. Ellis believes that because Mr. Fung and Ms. Sipes are close, he told her of their conversation about “race and equity” and what happened during the principal interviews, thus accounting for the significant change in Ms. Sipes’s attitude towards her and K and her sudden interest in referring K. to a self-contained behavior program. Because everything happened within a few days of each other, March 24-29, this explains for her how Ms. Sipes and Ms. Bailey went from saying K.’s not a behavior kid to saying he is definitely a behavior kid.

SC held a regular meeting on May 8, at which most staff attended with the expectation that they would be holding elections to replace Ms. Ellis and Ms. Briggs. At the meeting, however, Principal Miner did not permit elections to proceed and staff was visibly distraught, including Ms. Sipes. Coinciding with the push to hold elections that week was the significant uptick in reported events for K. at school. On Wednesday, May 9, they imposed in-house suspension even though the school had a stated moratorium on suspension and was instead employing restorative justice. K. had never been suspended before. The next day Thursday, May 10, K. was alleged to have thrown

tables and chairs at Ms. Bailey and Ms. Sipes. This behavior was so uncharacteristic for K., that Ms. Ellis pulled him out of school that day and he never returned to Thornton Creek. Ms. Ellis believes that staff wasn't giving a good faith effort to follow the plan that was in place to keep K. calm and was, therefore, exacerbating K.'s episodes. For example, where they could de-escalate by allowing K. to go to a quiet place to calm down, they would instead immediately initiate questioning about his behavior. Similarly, even though they had a plan for her to bring food whenever K. needed it because he didn't eat school food, they would try to feed him school food. On the final day when he was purportedly having such a violent episode, she reported she was called in the middle of it but by the time she got to the school within 5 minutes, everything was fine and K. seemed calm. Because it looked like he was increasingly becoming escalated under their watch, Ms. Ellis no longer trusted Thornton Creek staff with her son. Ms. Ellis reports that since her son has been in a different school (Wedgewood), he has not experienced any of the kind of aggressive episodes that Ms. Sipes was increasingly reporting as common.

Regarding the SC elections, at the Special Meeting held on May 29, LaChrista Borgers read a statement saying leadership made staff feel "unsafe." Interestingly, when Dr. Joung requested a copy of the statement, it could not be located and has not to this day. Ms. Ellis acknowledges that she couldn't beat the rumors of "barging into offices" when they were so easy to sell to a community with implicit bias. This was affirmed when she, Mr. Gasbar, Ms. Bailey, Ms. Briggs, and Dr. Joung had a closed-door meeting and the front office staff called the Union to report that she was being "violent and aggressive, and made them feel unsafe." In the face of such "intense racial trauma," when the June SC meeting was called, they passed the budget, finished official business, recused themselves, and walked away. Since leaving the school, however, Ms. Ellis has reviewed the email communications between the staff directing the effort to remove her from leadership. She was particularly distressed to learn that Maria Callahan, K.'s art teacher, was part of the group. When K.'s therapist asked her to name a "trusted person," Ms. Ellis named Ms. Callahan unaware that she was such a big part of it. As she says, "I thought she was an ally. I trusted her with my son."

Evan Briggs is a Thornton Creek parent and the Chair of SC for the 2017-18 school year. In May, at the end of the 2017-17 school year, she saw several emails imploring parents to volunteer for SC. Even though she had not attended SC before, Ms. Briggs volunteered and was installed as Chair by Ms. Stacy Earlywine, the prior Chair. Ms. Earlywine reported that it had been at least 10 years since they had held elections. Ms. Briggs was initially joined by Ms. Paige Reischl, who would act as Vice Chair, and both were told each office was "typically a two-year commitment."

Ms. Briggs reports that because no other business was being conducted by SC, there was no other interest other than personal. But when Principal Miner resigned and SPS rejected his request to appoint Ms. Bailey, there was immediate interest in SC and suspicion of Dr. Joung. Ms. Briggs asked Virginia Allemann, who had objected to Ms. Ellis on the principal hiring committee, why she wouldn't want Ms. Willis on the committee, she replied that "she's too focused on race and equity."

One week prior to the interviews scheduled on Saturday, March 24, Mark Fung, a teacher whose classroom was across from Ms. Ellis's son's class, asked, "Why is Christina at Thornton Creek if she has so many problems with it?" He further asserted that she's "trying to change the program by focusing on race and equity" and that her "kid is pretty tough and if we don't have expeditionary learning her kid is the one who stands to lose the most." Mr. Fung asked for a meeting with both Ms. Briggs and Ms. Ellis. Ms. Briggs corroborates Ms. Ellis's recollection of the conversation and, notably, that Mr. Fung told her not to focus on race and equity.

After Jonathan Gasbar was announced as the incoming Principal, Ms. Briggs went to Principal Miner seeking his assistance in combatting the widely-held belief that Ms. Ellis had filed a "race complaint," which she had not. Principal Miner, however, was being very passive. At the April SC meeting, Ms. Briggs attempted to also quell the rumours that "expeditionary learning" program model was being abandoned, but she was met by staff hostility. Lisa Calvert made offensive comments regarding Dr. Joung and others disparaged Mr. Gasbar. Unfortunately, Principal Miner did nothing to control the hostility and the meeting turned to how they could "overturn" the hiring decision.

At the end of April, Cassie Condon, the communications committee chair, pulled Ms. Briggs aside and advised her that, Christina had "barged into John and Kristin's offices yelling," so people don't feel safe with her. Ms. Condon would not, however, say who alleged to have observed this behavior. Ms. Condon did reveal she had been working with Ms. Bailey and Ms. Earlywine on reversing the hiring decision since the beginning of April. As part of their effort to somehow undo the hiring decision, staff also set their sights on removing SC leadership. In that regard, Ms. Sipes, who had both K. and Ms. Briggs' son in her class, sent an invitation to parents to consider running for Chair or Vice Chair. Ms. Briggs had never seen such a direct solicitation even though this was her 4th year at Thornton Creek and her 2nd year with Nora Sipes.

Ms. Briggs served a Public Records Request for email communications of the pertinent BLT staff and it was revealed that, contrary to their repeated denials, in fact staff was directly driving the effort to oust her and Ms. Ellis.

Nora Sipes is a 3rd grade teacher who has been teaching at Thornton Creek since 2003; for the 2017-18 school year she had K. in her class.

Ms. Sipes reports that her relationship with Ms. Ellis was initially friendly and positive, and Ms. Ellis would spend time volunteering in the classroom. One day though, a student came in and said, “K. said ni**er.” She asked K. if he said “ni**er” and he said, “yes.” She responded that the word is hurtful and that he couldn’t say it at school. He retorted that he “didn’t say it to anybody or at someone.” She replied that he “can’t say it at all.” As a consequence, Ms. Sipes debited K. a one-point reduction and recorded it on his point sheet that went home with him. Ms. Ellis came in very upset and reported that the other student had the book with the word in it and had K. read the word. Ms. Sipes acknowledges she did not know the whole story because “my investigation ended with asking him if he said it.” The next Monday she called a meeting with Ms. Ellis, Ms. Bailey, and the counselor to talk about what happened. At the meeting, Ms. Sipes apologized to K., who she reports accepted the apology. This was followed by Ms. Bailey and the counselor coming in to the classroom to teach a lesson about the history of the word. Ms. Sipes thought the issue was resolved, but she later learned that Ms. Ellis brought up the story at a BLT meeting with Dr. Joung in March 2018.

Ms. Sipes also reports on a physical altercation that K. had with a student in Mr. Fung’s class, which was across the hall. She reports the two boys were punching each other and had to be separated. The boys were put in separate rooms and then interviewed by her and Mr. Fung. Because K. would get agitated when he saw kids going by, she closed the door so he could have privacy. Although Ms. Sipes saw Ms. Ellis coming down the hall, she asked her to wait. She does not recall K. asking for his mother, nor Ms. Ellis asking to be let in the classroom. Regarding Mr. Fung’s interactions with K., Ms. Sipes reports that as a co-teacher, he could correct any student who was being unsafe and had in fact given K. direction in the past.

Ms. Sipes reports that K. had the “greatest behavioral problems” of any student in her class and that he “needed strategies for knowing how to touch people.” In efforts to support K., Ms. Sipes and K.’s case manager were “pulling in resources,” including having a paraeducator come in every day for an hour. In May, Ms. Sipes was advised by Ms. West that a space would be coming available in the Access program. Although Ms. Ellis had not requested to be considered for the Access program, Ms. Sipes thought she would independently recommend the program for K. She says this is because the program is very hard to get in to and would offer K. a place to de-escalate not in the company of other students. Ms. Sipes reports that this is what Ms. Ellis had been requesting because “he couldn’t be in shared spaces” and needed to be supervised. She

was told, however, that it was against protocol to recommend transfer to a program where the family had not requested. She reports that both Ms. Ellis and Ms. Bailey were very upset with her, and that Ms. Ellis interpreted it as her “giving up” on K.

Ms. Sipes reports the last week K. was at school was very challenging and that on what would be his last day, he was really upset. She says he didn’t want support from anyone and that he was “kicking and throwing things” such that they had to form a barrier between him and other students. She remembers Ms. West coming in to the classroom but doesn’t remember what happened when she did. She recalls that they gave the students an additional 5 minutes of recess while they cleaned up the room. She reports that K. was “kicking stools at them” and “throwing things” and tearing the room apart. She also reports that he was using phrases like, “You are targeting me” when responding to staff management.

Ms. Sipes insists that everyone worked hard to make it work for the Ellis family, and that they wanted to be successful.² She also cites to the fact that she put K.’s school work in a folder for him and informed Ms. Ellis of Smarter Balance testing as evidence she was not retaliating against him.

Ms. Sipes believes she was exonerated in the last investigation as it did not support retaliation or HIB, and she was not disciplined. She reports that all staff at Thornton Creek were directed to take HIB and hiring training.

Mark Fung is a teacher in his 5th year at Thornton Creek; currently he teaches 2nd and 3rd grade. During the 2017-18 school year, Mr. Fung was on BLT and SC. His recollection is that historically, SC leadership would send out a notice to parents on or about May 5 at the end of the school year, asking if anyone wanted to step into leadership. If no one stepped up, then the incumbent would roll into their second year. Mr. Fung does not recall that email going out the prior school year, but he also acknowledges that there had not been any competition or contested elections previously. In the absence of SC leadership sending out the invitation email, Mr. Fung took the initiative to send an email to his class of parents. He asserts that if Ms. Briggs had sent out the email in May and no one stepped up, then she could have continued being Chair without objection. But that the process that was followed was not “appreciated” and caused “confusion.” When asked what, if any, parents had expressed this confusion, Mr. Fung could not recall any.

² In support of her defense to the claim of retaliation, Ms. Sipes provided this investigator with email communications she asserts evidence K.’s aggressive and volatile behavior. Those emails have been included in the timeline.

Regarding the conversations Ms. Briggs and Ms. Sipes reported having with Mr. Fung in advance of the principal interviews, Mr. Fung has little recall. He does not recall asking why Ms. Ellis was at Thornton Creek “if she has so many problems with it,” but does think he might have “asked a question about what Ms. Ellis’s problems were.” He claims that in the first conversation with Ms. Briggs he did request a meeting with Ms. Ellis, but that the second conversation was “them against me.”

As a member of BLT, he was also a member of the principal hiring committee. Even though he admits not being at the meeting at which Dr. Joung suggested that Ms. Ellis be added to the committee, he disputes others’ characterization of how Ms. Ellis ended up on the principal hiring committee. He asserts that Dr. Joung said, “stop having parents call and email me” and declared that she wanted Ms. Ellis. Mr. Fung is also frustrated that Ms. Ellis reportedly “brought up issues that were racially charged, but resolved,” so that instead of talking about hiring, she had “personal issues.” In requesting a meeting with Ms. Ellis, it was to make sure “they were all on the same page” and that Ms. Ellis wouldn’t bring her “bias.”

Regarding Ms. Ellis’s son, Mr. Fung states he does believe K. “would benefit from a hands-on approach.” Mr. Fung had difficulty responding to direct questions touching on his intent around this conversation with Ms. Ellis and Ms. Briggs regarding Ms. Ellis’s son given privacy concerns. During our interview, Mr. Fung vacillated between admitting he initiated the conversation, to saying he “won’t go on record saying he said it,” to flat out denying he said it, to landing on “I don’t know if I did or did not say it, but if I did it was to ensure a student had a successful educational career.”

Mr. Fung reports that K. was not the “most behaviorally problematic” but he had “concerns.” He also acknowledges that there were other students with “greater behavior performance” issues and who did the same things K. did, but claims not at the “same rate” and that K. was “louder.” When asked what issues he was aware of, Mr. Fung reports an incident in which K. hit a student with a water bottle, saw him dancing on a table once, and a third incident in which K. tried to “stuff” another student with behavior challenges into a “butterfly cage.” Even though he is not K.’s teacher, Mr. Fung reports that he directed K. to get off a table and sit down and talk about expected behaviors. He also responded to the water bottle incident, which is when Ms. Ellis showed up to the classroom and was asked to stay in the hallway. Mr. Fung recalls that she said it was Ok for both of them to talk to K. In both cases, Mr. Fung acknowledges that K. did not deny the conduct.

Mr. Fung is very eager to put this matter behind him as he reiterated several times that this matter happened “a long time ago” when there were a lot of emotions.

He expressed regret that SPS did not bring everyone together for a sit down sooner as the “process took too long” and “people got frustrated.”

When asked about what he thought the outcome of the prior investigation was, Mr. Fung states that there was a “perception of harassment, intimidation, and bullying, but no finding” and that this perception was limited to Ms. Briggs.

Dr. Concie Pedroza is the Chief of Student Support Services; until August 2019, she was the Director of Racial Equity Advancement. In her capacity as Director of Racial Equity Advancement she oversaw support of the race and equity plan, training in all schools, and professional development for principals and assistant principals. She recalls interacting with Ms. Ellis when Thornton Creek was in process of hiring a new principal. Dr. Pedroza’s staff had participated in some elements and wanted to bring her in to do a racial and equity analysis of the hiring process. Prior to that, however, Dr. Pedroza had received a call from Principal Miner asking her to meet with a newly formed on-site parent equity team. Dr. Pedroza met with the parent group, and describes the group as mostly parents of color with a lot of enthusiasm for the work they were going to do. The group included Evan Briggs and Christina Ellis, who were both serving as Chair and Vice Chair of SC. Because Dr. Pedroza understood the team to be a “fully sanctioned subset” of SC, she thought they were working together and that there was alignment of shared missions. According to Dr. Pedroza, a fully sanctioned subset would have gone through process to develop an equity plan and substantial training on norms setting for race and equity conversations.

Fast forward to months later and Dr. Pedroza reports receiving a call from Dr. Joungh alerting her to an effort to “oust” Ms. Ellis from SC and asking her to support them at a meeting. Dr. Pedroza used to be a parent in the Thornton Creek area so she is familiar with the demographics of the Thornton Creek community and with Principal Miner. She reports that when her student was there “every kid of color was in the special education resource room.” Dr. Pedroza connected Ms. Ellis to someone in student discipline because Ms. Ellis was expressing concern about how her son was being treated as a result of her building activity. Prior to attending the meeting, she met with Principal Miner to get background information and to develop a strategy for the meeting. Dr. Pedroza recalls him acknowledging that having one of the few Black parents to raise race and equity issues now being “ousted” was not good for the school; he also acknowledged that the issues were being driven by staff. They decided that Dr. Pedroza and Harium Martin-Morris would facilitate the conversation. According to Dr. Pedroza, the meeting was “rough,” “very hostile,” “stressful,” and with tension “you could cut with a knife.” In her perception, the conflict was due in part to a school culture where teachers have influence over policies and procedures and some families

were doing their bidding. And in this case, a beloved principal was being replaced through an allegedly “bad hiring process” in which the first person of color to act as Vice Chair of Site Council was “talking about racial issues to a community not ready to hear them.”

The next SC meeting she attended was also very uncomfortable and very long; she made an introduction on implicit bias. Even though Mr. Miner had agreed with her on certain strategies to handle the tension, it was clear he had not implemented them. He allowed the staff to read a letter and say it was “from all the teachers.” Dr. Pedroza recalls the teachers all sitting together, including Ms. Sipes, in a coordinated effort to discount Ms. Ellis’s voice. She thinks Ms. Ellis bringing racial issues and tensions into the school brought up a lot of “fragility.” Dr. Pedroza recalls being stunned listening to the letter being read. Although the staff claimed the issue was “communication and leadership,” it was “clear” that it was about Ms. Ellis and race.

Dr. Pedroza had actually worked with Ms. Bailey earlier in the year when she had reached out on improving racial incident reporting. Dr. Pedroza believes that Ms. Bailey genuinely wanted to work on and identify race bias issues at the school generally, and specifically with respect to Ms. Ellis. At one time Ms. Bailey had asked Dr. Pedroza for counsel on how to respond to Ms. Ellis on an issue. According to Dr. Pedroza, Ms. Bailey was able to hear that “when a family says an incident is race-based, it’s not up to you as a White Woman to say it’s not.”

Dr. Pedroza was also instrumental in bringing incoming Principal Gasbar in to meet with families before his term officially began at Thornton Creek started. Unfortunately, because by that time most of the staff and parents had already rejected him as the Principal, meeting with the “race and equity” parents just solidified the opinion that he was on “their side.” Support for him was so low at Thornton Creek that parents complained when Dr. Pedroza earmarked funds for a race and equity support person for the building’s equity plan.

Dr. Helen Joung is the Director of Schools currently supervising principals in all 5 regions of Seattle Public Schools. In the 2017-18 school year, she was assigned Thornton Creek for the first time and when they were undergoing the first principal hire in 33 years. Dr. Joung recalls two meetings at Thornton Creek that stand out to her. At the first meeting, which she believes was a Building Leadership Team (BLT) meeting, she met Ms. Ellis for the first time. Dr. Joung was asked what the requirements were for the principal hiring committee and she advised that it needed parent representation and encouraged them to be mindful of diversity. Unaware of the relationship issues, Dr. Joung thought it was a natural fit for Ms. Ellis to be on the

committee because she's "leadership," "woman of color," and a "parent." Dr. Jounge acknowledges that staff probably saw that as her "ushering" Ms. Ellis into the role.

With respect to the hiring process itself, Ms. Ellis reported to Dr. Jounge that Ms. Bailey was texting her during the actual interview process, which was concerning. Despite that Dr. Jounge made it very clear that the hiring committee was not the final arbiter and only made recommendations for the Superintendent, the staff was very unhappy when both Ms. Bailey and Mr. Gasbar were moved forward. Although Ms. Ellis had no power over the decision, staff blamed her for why Ms. Bailey did not get the job. Making things worse, there was an allegation that confidentiality had been breached because "too many people knew details of that day."

Dr. Jounge recalls another meeting at Thornton Creek with Ms. Ellis, Ms. Briggs, Mr. Gasbar, and Ms. Bailey, and Ms. Ellis was sharing her feelings about the hiring process. The meeting was held behind closed glass doors in the main office at Thornton Creek. Ms. Ellis was "upset," "crying and emotional," but "not yelling or angry." Dr. Jounge denies sensing hostility or feeling unsafe, to the contrary, she felt Ms. Ellis was being heartfelt. Ms. Bailey was also upset and emotional, and her words were all "jumbled," almost as if she was asking Ms. Ellis to "do something to make the situation better." While they were all in this closed-door meeting, one of the front office staff apparently contacted union representatives to report "feeling unsafe." This was very alarming to Dr. Jounge because there were no indications inside the meeting that anyone felt unsafe and no one asked for assistance. Dr. Jounge did not know why they were called and wondered if someone felt "unsafe" why they did not come in and ask.

Jon Gasbar is currently the principal at Cedar Park; he served as principal of Thornton Creek for the 2018-19 school year. At the time he received the offer for the principal role, he had been told about the difficulties the school was having with the transition so he had already started working with Thornton Creek staff. At the first meeting he says it was clear that staff was feeling anger that Ms. Bailey didn't get the role. On or about May 7, he attended a community meeting where the division in the school was evident. He asked Principal Miner and Ms. Bailey at the time if there was anything he should know about the community. He recalls them telling him about "this one family" (the Ellises) for whom the "relationship is very broken" and the family sits outside their student's classroom every single day (because of discipline issues).

Thereafter, he was copied on all the communication about the SC elections and the efforts to replace Ms. Ellis. Initially he thought SC was operated similarly to a parent-teacher association, but soon learned that they have significant differences, including the power concentrated in the SC. He recalls being told, "You don't know

how this school is run.” He met with Marty Brekke, Sacha Dearborn-Grant, and Cassie Condon to work through a resolution proposal. At the time, he was promised that there was absolutely no staff involvement and that the election was strictly a parent initiative. He developed a resolution that called for an election in November and a joint task force to update the bylaws, but that resolution was rejected.

At the next meeting, what Mr. Gasbar describes as “the craziest meeting I’ve ever been to in my life,” there was yelling, screaming, and when someone said “racism” it triggered everyone. It was at this meeting that LaChrista Borgers read a letter on behalf of all staff in which she stated staff felt “unsafe” around current leadership, which was in conflict with the earlier agreement that no staff were involved. Mr. Gasbar describes the letter as “the worst thing staff did” and that it was humiliating when they stood up in support. He recalls references to EDI committee members as “those people,” (e.g., “you have no idea what those people have done to us!”) and Ms. Ellis being gaslit by the backchannel efforts to undermine her. From the outside, Mr. Gasbar says it was clear race played a role as Ms. Ellis was the only person from the principal hiring committee to have so much vitriol directed at them.

The only conversation Mr. Gasbar had with Ms. Sipes concerning the conflict was at the start of the school year 2018-19, and after Ms. Ellis had already withdrawn her son, in which Ms. Sipes said, “I just want you to know Jon that everything this woman says is a lie. She calls me a racist and I’m not. Her kid was out of control. A mess. Couldn’t do anything right.” This is consistent with other “staff trash talking” he heard about Ms. Ellis. A teacher, Cindy Spencer, characterized Ms. Ellis as “yelling and screaming and kicking doors in” when she wanted to see Mr. Miner, which he believes explains why in a later closed door meeting they received a call from the union concerned that Ms. Bailey was in an “unsafe” space. He says “they hated [Ms. Ellis],” had “nothing good to say about her,” and she was gaslighted and scapegoated.

Christina Pizana is a parent at Thornton Creek who has known Ms. Ellis for 3 years when they were on the race and equity group. She did not have her children in any classes with Ms. Ellis’s children, but considers Ms. Ellis a friend now. Ms. Pizana says her first real introduction to the culture of SC meetings was when at a meeting someone said, “Why diversity? Real diversity is in special ed diversity.” That inspired her and her wife to become more engaged with the building leadership. According to her, the equity and race group meetings turned into a support group and they needed increasing support from central office for its mission because “no one at the school knows how to deal with racial issues.” As for SC itself, Ms. Pizana disputes that there had been any elections in years, but that the more Ms. Ellis talked about her participation, the more grief she received. She also reports that Ms. Ellis would

volunteer in the classroom to “make sure things went safe for her kid.” Ms. Pizana considers Ms. Ellis “forthright with information and personable,” and surmises she wasn’t successful because no one wanted to trust her.

Stan Damas is a lawyer and was the Executive Director of Labor and Employee Relations at SPS until January 31, 2019. He first heard about Ms. Ellis from Dr. Joung in relation to a dispute between leaders and members of parent council at Thornton Creek. Although the dispute initially centered around selection of the principal, it had escalated to include discrimination complaints, including the complaint that her son was being retaliated against by his teacher who was enforcing expectations more strictly than she had before. In that capacity, Mr. Damas was involved in multiple separate meetings with the groups in effort to gain perspective and possibly resolve the dispute. He recalls the involved staff including Mr. Fung and Ms. Sipes.

Regarding Ms. Ellis, Mr. Damas reports he was given the impression of Ms. Ellis as “aggressive and inappropriate in advancing racial issues that she believed existed at the school.” Mr. Damas also reported that the staff letter read at a SC meeting portrayed “stereotypical issues about African-Americans,” such as saying they were afraid of Ms. Ellis when she was advocating for herself and her son. Mr. Damas’s perception and conclusion is that the treatment would not have happened if Ms. Ellis were White. As an example, the reliance on the bylaws and rules for SC were admittedly not followed for years, but once they determined to remove her, staff relied on them to “get her out.” Ms. Ellis was told “not to focus on race and equity and to focus on project-based learning” and teachers were “vocal” about their (inaccurate) perception that Dr. Joung had picked Ms. Ellis for the principal hiring committee because of their races.

Mr. Damas was working on resolutions including mediation and training, but retired before they could be implemented.

Paige Reischl is a former parent at Thornton Creek; none of her students were in classes with Ms. Ellis. Ms. Reischl became involved with building leadership in large part due to what she saw happen with Ms. Ellis. She was originally supposed to be the Vice Chair for 2017-18 school year, but lost her youngest son at the start of the school year, so she pulled out of the role. In preparation for taking on the role, however, she met with then Chair, Stacy Earlywine, and Vice Chair, Cassie Lieberman, on several occasions. Ms. Reischl is adamant that at all times it was clear that the expectation was that the cabinet position on SC is for two years with the Vice Chair moving up to Chair after one year. Ms. Reischl said this was actually going to be a good way for both her and Ms. Briggs to be involved, since they didn’t know the process and could support

each other. Indeed, according to Ms. Reischl, then-leadership had put out several pleas to the parent community to generate interest, to no avail.

Ms. Reischl recalls the SC meeting at which Ms. Ellis volunteered to take the Vice Chair role. She thought it was a great idea since there were no people of color on the SC and Ms. Ellis's "equity lens" would be good for the position. But then at the SC meetings, no one would call out the microaggressions Ms. Ellis was subjected to. These included staff saying "We don't feel safe with Christina" and calling her an "Angry Black woman." Ms. Reischl recalls LaChrista Borgers standing up at SC and saying that she "didn't feel safe with Christina Ellis." In Ms. Reischl's experience, Ms. Ellis had never acted unsafely and was a caring, compassionate member of their community.

David Simonton is a parent in the Thornton Creek community. Prior to meeting them in late May 2018, Mr. Simonton had never met Ms. Ellis or Ms. Briggs. He was invited to the large Special Election meeting on May 29, by another parent. This was the meeting at which LaChrista Borgers read the letter on behalf of staff declaring, "It's time that voice of teachers was heard," "Site Council leadership must change," and that they did not "feel safe." The meeting environment was so "shocking" and "hostile" that "audible" gasps were heard; he recalls tearful testimony from parents of color. After the meeting, he went home and noted his thoughts in a long Facebook post. Mr. Simonton sees much of the "parent hysteria" to be the byproduct of manufactured outrage about program vulnerability by people who did not like Ms. Briggs and Ms. Ellis' leadership.

Lisa Calvert is a 4th and 5th grade teacher in her seventh year of teaching at Thornton Creek. Ms. Calvert did not have Ms. Ellis's son in her class, and had no interactions with him. Ms. Calvert was a member of both SC and the BLT during the 2017-18 school year. Ms. Calvert recalls a SC meeting early in the 2017-18 school year in which she described a situation with an African-American student and discussion of "colored people" v. "people of color" that she shared as an example of "learning." Later she learned that Ms. Ellis referenced the story as an example of microaggression in the meeting with Dr. Joung when the composition of the principal hiring team was being discussed. She acknowledges this upset her. Regarding SC elections, Ms. Calvert denies that the terms for Chair and Vice Chair were typically greater than one year and asserts that they always voted on a slate of candidates. When asked about Ms. Earlywine, however, she admits that her term was longer than one year.

When Principal Miner announced his resignation, she reports that BLT reached out to SPS for guidance as to process, but didn't get a response for 3 weeks. The abbreviated timeline left them with very little time to organize before interviews were scheduled. At the meeting with Dr. Joung to discuss process and hiring committee

makeup, which Dr. Joung said needed to include parents, because Ms. Ellis was a person of color and on the SC it seemed “haphazard,” but a “go.” Later they worked in small groups to develop principal “look fors” and she was the one who compiled and typed up the long list of “look fors.” When asked about the allegation that “race and equity” was removed from the list of “look fors,” she denies that she intentionally removed them from the list. She posits that it may have fallen off due to the short turnaround between planning and the interviews. When asked about whether she believed race and diversity should in fact have been a look for, Ms. Calvert states yes as to “economic and neurodiversity.” She reports that “multiracial students had rated higher than white students, but poor families had rated lower.” According to her, the SPS survey was “all race,” so they added economic and neurodiversity. She denies that this was intended to be dismissive of people of color or race.

Ms. Calvert was a member of the principal hiring committee but denies that she was the source of the leak that resulted in Dr. Joung calling the committee down to the district office. Specifically, she denies that she told anyone what Ms. Ellis said during the interviews. She does admit that she discussed her frustration about being instructed to “hire a systemic principal” rather than one specific to the school. She notes that within three hours of BLT’s request for a meeting with SPS to express concerns about the hiring process, they were being told they were coming down to discuss “breach of confidentiality and racial retaliation of children.” Ms. Calvert denies ever calling Ms. Ellis aggressive, violent, or a race baiter.

V. FINDINGS AND CONCLUSION

Two of the most ubiquitous and harmful stereotypes plaguing Black-Americans are the “Angry Black Woman,” in which Black women who self-advocate are portrayed as unsafe, thereby silencing and shaming them, and the “Aggressive Black Man-Child,” in which Black boys are denied the youthful innocence of their non-Black peers and instead are seen as extraordinary and, therefore, youthful indiscretions turn in to actual threats. In this investigation, both of these tropes are front and center. Added to this is increasingly nuanced implicit bias, in which the actor is woefully unaware of how unconscious attitudes and beliefs may be responsible for their response to a person or situation. In addition to regularly calling Ms. Ellis unsafe, some of the words used to describe her 8-year-old child are illustrative: “frightening,” “extraordinary,” “out of control,” “dangerous,” and “extremely disrespectful.”

HIB motivated by race

SPS Policy No. 5207 prohibits acts that are intended to intimidate, bully, degrade, or humiliate and “have the effect of substantially interfering with a volunteer’s work environment, are “so severe, persistent, or pervasive that they create an intimidating or threatening work environment,” or “have the effect of substantially disrupting the orderly operation of the work place.” HIB motivated by race is prohibited by SPS Policy No. 5010. Based on a thorough review of the history at issue and the hundreds of pages of backchannel emails between staff expressing their frustration and anger at Ms. Briggs and Ms. Ellis for their perceived role in preventing Ms. Bailey from becoming Principal, there is little room for dispute whether Thornton Creek staff worked in concert to oust SC leadership. This is consistent with the prior HR findings. **Ex. P. I further find that it is more likely than not that the Staff’s actions were directed at Ms. Ellis because she is Black and because she raised issues of race and diversity.**

This finding is supported in large part by the way staff talked about Ms. Ellis with terms and language that served to marginalize and demonize her. The theme that Ms. Ellis was “unsafe” ran rife through Thornton Creek. Ms. Condon informed Ms. Briggs that staff had observed Ms. Ellis “barge into John and Kristin’s offices yelling.” Similarly, Cindy Spencer described Ms. Ellis to Mr. Gasbar as “yelling and screaming and kicking doors in” when she wanted to see Mr. Miner. This narrative explained why in a later closed-door meeting with Ms. Ellis, Ms. Bailey, and others, they received a call from the union responding to reports that Ms. Bailey was in an “unsafe” space. Added to this is the statement read by Ms. Borgers that pointedly called SC leadership “unsafe.” The false narrative that Ms. Ellis was “unsafe” was particularly harmful when there is absolutely no evidence that she has ever posed a threat or displayed threatening behavior to anyone at Thornton Creek.

Coupling the “unsafe” allegation with the unfounded, yet persistent, claim that Ms. Ellis had filed a “race complaint” and that she was only focused on “race and equity,” further called on racial biases to posit her as a “race baiter.” The staff’s documented fixation on Ms. Ellis, despite that Ms. Briggs was also part of leadership, in addition to the inaccurate assumption that Ms. Ellis and Dr. Joung knew and were collaborating with each other, when they were the only two people of color involved, also support that the hostile actions directed at Ms. Ellis were due to her race. In fact, staff acknowledged that the perceived relationship between Dr. Joung and Ms. Ellis “resulted in alienating [her] from the school community” **Ex. SS; even though no such relationship pre-existed.** This reflects a deep-rooted racial bias that, while likely unconscious, is evident in the actions and statements of the staff in this case.

Retaliation against K.

SPS Policy No. 3210 states that, “retaliation against any person who makes or is a witness in a discrimination complaint is prohibited and will result in appropriate discipline.” As applicable to this investigation, retaliation is action taken because an employee has engaged in protected activities, including, filing a complaint, performing required job duties, and advocating for legal rights of self or student. In this matter, **I find it more likely than not that K. was retaliated against because his mother was performing her duties as SC Vice Chair and principal hiring committee member, and because she advocated race and equity issues on behalf of her family and others at Thornton Creek. Specifically, given the closeness in time between the principal hiring process and Ms. Ellis’s conversation with Mr. Fung in which she rejected his call for her to not focus on race and equity, and the escalation in reports of K.’s behavior, I find it more likely than not that staff--whether consciously or unconsciously--was motivated by race and retaliation against K. for his mother’s work with the principal hiring committee.**

Review of the many emails between Ms. Ellis and Ms. Sipes and the rest of K.’s support team establish a relationship that initially included pleasantries and efforts to be collaborative, but by mid to late-March had devolved. Ms. Sipes used to close her emails with “Have a good weekend” or smile emojis, and volunteered to support by, for example, looping in K.’s private therapist in communication reports. Yet by March 26, Ms. Sipes was characterizing K.’s language and behavior as consistently aggressive and uncontrollable. The shift was so palpable that Ms. Ellis reminded Ms. Sipes that on Friday, March 24, she had “praised [K.] for his response to being threatened by another child at the school. **Ex. Z.** And Ms. Bailey’s communications on March 28 and 29, prior to learning she was not selected to be the next Principal, indicate that she understood K.’s plan would require an investment of time and that his behavior was reactive, that she would commit to the plan, and that she expected staff to understand and commit as well. **Exs. Y and CC.** I do find this sea change in attitude and effort was motivated by retaliation for the comments Ms. Ellis had made about race and her perceived role in preventing Ms. Bailey from being the next principal.

As an example of how language can be indicative of bias playing on racial tropes, the communication between Ms. Sipes and the academic team on March 28 is particularly interesting. **Ex. BB.** A teacher reported that K. had repeatedly bumped into her students as they lined up, which resulted in him knocking over a student who is less stable because he is disabled. K. then became argumentative, “frustrated/defiant,” and angry when she talked with him about how this conduct can be “dangerous for [the student].” **Id.** Notably, her report does not characterize K. as “dangerous;” nor does her report include what, if any, words K. may have used in expressing his anger or frustration. By contrast, in her email forwarding to the support team, Ms. Sipes reports

that K. “became very angry and disrespectful” and that he called the teacher “horrible little woman” and “liar.” While this information may have been received offline, that the teacher did not include it in her written report is telling. Further, although the offensive language was similar to the language K. had used only two days prior and the physical actions didn’t indicate aggression directed at anyone personally, Ms. Bailey responded “This is dangerous. I think a natural consequence is that K. needs to move through empty hallways.” Referring to K., an 8-year-old, as himself “dangerous” and concluding he should not be in the hallways with anyone based on one report is reflective of bias.

Ms. Sipes was reminded on several occasions in late March that K. was a child deserving of grace and empathy when responding to episodes where he was not compliant or he was showing aggression towards other students. When Ms. Sipes sent her email referring K. to Access based on an incident in which he hit out at a classmate and would not participate in conversation, Ms. Bailey made clear that a program change would not be warranted for an “incident like this or even a series of them.” **Ex. Y.** Ms. Bailey also reminded her the plan had just been developed and implemented, and “there are bound to be days where he struggles more than any other like any 3rd grade boy would.” Ms. Daderko, K.’s private therapist, said something similar in response to Ms. Sipes essentially advising that K. “may not get the choice of when someone has a conversation with him.” **Ex. AA.** (“I also imagine that he is not the only one who doesn’t handle conversations when he is really upset.”). It seems as though just as the plan was being implemented to provide K. space to de-escalate prior to staff engaging him, Ms. Sipes was already abandoning it.

One could argue that by the end of the school year Ms. Sipes and others in K.’s support system had grown weary and, thus, what is observed between late March and May 10 is the convergence of two unrelated timelines—the principal hiring and K.’s escalation. Thornton Creek is a school that claims to address the social, emotional, and intellectual needs of the child and to support a collaborative, multicultural, experiential educational philosophy. Yet K. did not experience this support. It is also significant that Thornton Creek has some history of funneling students of color to special education. The language used to describe his actions was incendiary and suggested extraordinary conduct, which, at least on March 26 prior to learning she was not going to be the new principal, Ms. Bailey did not see as extraordinary. By May, everyone in K.’s academic support system had ceased to see K. as an 8-year-old child who needed support, and had now relegated his status to that of problem. Moreover, one cannot separate the treatment and perception of K. by staff, from the demonstrated animosity that same staff directed at Ms. Ellis for the racial advocacy they saw as responsible for denying them their preferred principal candidate.

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Given this context and the seemingly rapidly escalating disciplines that may have been the result of staff aggravating K, it was reasonable that Ms. Ellis would remove her son from the school to avoid further retaliation. It is significant that K. has experienced no behavior issues in his current school placement.

Both Ms. Sipes and Mr. Fung denied any racial motivation for the actions they engaged in as they relate to K. and Ms. Ellis. I do not find Ms. Sipes credible because of her lack of self-awareness, the contradictions between her and Mr. Fung as to whether K. was the student with the “greatest behavioral problems,” and because I find Mr. Gasbar more credible. Mr. Gasbar, who is no longer assigned to Thornton Creek and has no seeming motivation to not tell the truth, reports that Ms. Sipes told him that Ms. Ellis was a liar whose “kid was out of control. A mess. Couldn’t do anything right.” This is compelling. Similarly, I don’t find Mr. Fung credible, in large part because of his evasiveness and flipflopping during the interview. Mr. Fung was so committed to his narrative that he didn’t recognize the illogic of admitting that K. did not have the most or greatest behavior problems, yet still concluding that K. was a greater threat because he was “louder” and it was not at the same “rate.” When asked what that rate was, he could only identify three instances, and only two of which involved aggression to another student.

In closing, it is important to note that acting pursuant to an implicit bias does not mean a person exhibits conscious hate per se, and it does not mean they are “bad.” Indeed, it is commonly understood that *everyone* has biases. It is the failure to recognize the existence and prevalence of implicit biases that has the potential for greater harm.

Thank you for the opportunity to assist with this investigation. Please let me know if you have any questions regarding the above. Thank you.

Sincerely,

HELSELL FETTERMAN LLP

Sent Without Signature to Avoid Delay

By
Onik’a I. Gilliam-Cathcart

Enc: Exhibits