

INVESTIGATION REPORT

**RE COMPLAINTS AND ALLEGATIONS
DIRECTED TOWARDS [REDACTED]**

**[REDACTED] TRUSTEE ANNE CHING, AND
TRUSTEE CATARINA LANDRY**

BY BRYAN L. HAWKINS, ESQ.

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FACTUAL BACKGROUND

John Kelly is currently on the Board of Trustees of the Sonoma Valley Unified School District (the “District”). Trustee Kelly has made complaints regarding [REDACTED] [REDACTED] Trustee Anne Ching, and Trustee Catarina Landry.

On April 17, 2023, Bryan L. Hawkins, with the law firm of Stoel Rives LLP, was engaged to investigate the complaints raised against [REDACTED] Trustee Ching, and Trustee Landry.

WITNESSES INTERVIEWED

Name	Position	Date	Interview Method
John Kelly	Trustee of the District	May 15, 2023 May 26, 2023	Via Zoom (By Investigator Hawkins)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Catarina Landry	Trustee of the District	July 18, 2023	Via Zoom (By Investigator Hawkins)
Anne Ching	Trustee of the District	July 24, 2023	In Person (By Investigator Hawkins)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Investigator Hawkins admonished each witness to keep the contents of the interview confidential during the course of the investigation. Investigator Hawkins also informed each individual that the District’s policy and the law prohibit retaliating against anyone who participates in the investigation. Additionally, Investigator Hawkins communicated to each witness that his

investigation was focused solely on complaints relating to employment issues such as allegations of discrimination, harassment, and retaliation.

DOCUMENTS REVIEWED

Investigator Hawkins reviewed and considered the following documents during the process of the investigation:¹

Documents from [REDACTED]

- Email dated March 28, 2023 from Mr. Kelly to [REDACTED] with the subject heading "[REDACTED]." (Attached hereto as **Exhibit A.**)

Documents from John Kelly

- [REDACTED] (Attached hereto as **Exhibit B.**)

EXECUTIVE SUMMARY OF CONCLUSIONS

Trustee John Kelly has alleged unlawful behavior by fellow Trustees Anne Ching and Catarina Landry and [REDACTED]. Specifically, Mr. Kelly has alleged that these individuals have engaged in acts of harassment against him in violation of the District's policies and the law.

Investigator Hawkins finds that the preponderance of the evidence does not support a conclusion that Trustee Ching, Trustee Landry, and [REDACTED] have engaged in any conduct in violation of either California law or the District's policies.

¹ Some of these documents are included as Exhibits to this Investigation Report.

EVIDENCE AND FINDINGS²

WITNESS STATEMENTS³

John Kelly

On May 5, 2023, Investigator Hawkins interviewed Trustee John Kelly. Mr. Kelly has been a Trustee with the District for seven years.

Mr. Kelly began the interview by cutting and pasting into the “chat” the following timeline of events relating to current allegations:

[REDACTED]
[REDACTED]
November 2020 - The handling of the PLA.
December 2021 - The incident that occurred during the dinner in San Diego.
January 2022 - The lack of an investigation by the District into the San Diego meeting.
February 2022 - The release of an incomplete report, spreading misinformation.
March 2022 - Personal attacks against you by [REDACTED] based on the inaccurate report.
June 2022 - The District Attorney (DA) found no evidence to support the criminal report submitted to their office by the District.
July - September 2022 - You called out [REDACTED]
[REDACTED]
October - December 2022 - [REDACTED]
[REDACTED]
March 2023 - The conduct of a hostile meeting run by Trustee Anne Ching, during which Trustee Catarina Landry voiced conspiracy theories.
[REDACTED]
[REDACTED]

Mr. Kelly then went into detail regarding these allegations.

[REDACTED]

² The findings in this report are made based on the “preponderance of the evidence” standard used in U.S. civil courts. A fact is proven by a preponderance of the evidence where it is more likely than not (i.e., more than 50%) to be true.

³ The witness statements below contain Investigator Hawkins’ recitation of the testimony provided by the respective witnesses. The fact that a statement is contained below does not necessarily mean that Investigator Hawkins accepted the truth of such statement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Mr. Kelly then stated that he is not complaining against [REDACTED] He is, however, complaining about [REDACTED] and Trustees Anne Ching and Catarina Landry and wants them added to the scope of this investigation.

Mr. Kelly began by discussing the March 9, 2023 board meeting where he brought an item relating to the realignment of schools within the District. Mr. Kelly said that Trustee Landry responded by stating that he was bringing up this issue due to a conspiracy with the union and for

other illegal/unethical reasons. Mr. Kelly said that he complained that this was improper but that Trustee Landry repeated her allegations. Mr. Kelly said that these statements challenged his reputation, and the District did nothing to support him or to stop Trustee Landry's statements.

Mr. Kelly said that Trustee Ching – the presiding President during that meeting – did nothing to stop Trustee Landry. Mr. Kelly said that Trustee Ching also did nothing to support the proper structure and flow of the meeting. He said that members of the public were there and were being very disruptive. Mr. Kelly said that by doing nothing she fostered and supported Ms. Landry's statements.

Mr. Kelly said that a video of this meeting is available online and he sent Investigator Hawkins the website link.

Mr. Kelly then discussed the next board meeting, occurring on March 25, 2023. Mr. Kelly said that the realignment did not pass during the March 9, 2023 board meeting and that Trustee Ching organized a special board meeting without notice to the public. Mr. Kelly said that Trustee Ching interrupted Mr. Kelly during this special board meeting with her gavel on multiple occasions and acted very unprofessionally. Mr. Kelly said that these efforts impeded his ability to do his job. Mr. Kelly tried to send Investigator Hawkins a link to this meeting but was unable to do so. He said it may be available from the District.

[REDACTED]

Mr. Kelly said that this project labor agreement was ultimately approved by the District but that subsequently [REDACTED] contacted a newspaper and communicated multiple untrue facts regarding the events leading up to the acceptance of the agreement, including allegations about Mr. Kelly and alleged corruption. Mr. Kelly said that the newspaper published this, which led to the District launching an investigation into the matter.

Mr. Kelly said that as part of the investigation the District requested that Mr. Kelly produce his personal cell phone. Mr. Kelly said that he tried to negotiate this issue with the District but that ultimately the investigation resulted in a report containing multiple untruths regarding Mr. Kelly. Mr. Kelly said that this report is still available on the District's website. Mr. Kelly said that the facts stated in that report by Trustee Blake, Trustee Wetzel, and Trustee Johnson were untrue. Mr. Kelly said that these individuals were not interviewed and that the report was deliberately written to make it appear that Mr. Kelly was hiding emails. Mr. Kelly said this was untrue and that he turned over all emails after the report was made. Mr. Kelly said that after the report was

released the District tried to censure Mr. Kelly. [REDACTED]
[REDACTED]

San Diego. Mr. Kelly said that halfway through that dinner [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] At this point [REDACTED] and [REDACTED]

The District Attorney did not investigate the complaint. [REDACTED]

happened in San Diego.

attend things.

[REDACTED]

that [REDACTED]

[REDACTED]

Mr. Kelly then further discussed the District's realignment process. He said that this began because enrollment was down and teachers weren't being paid enough. The public wasn't aware of the issues so Mr. Kelly purchased a full page ad in the local newspaper in March about the situation. He said that the board President had a different view and wanted to slow the process down and have it occur over a period of five years.

During the March 9 board meeting the President – Trustee Ching – communicated this to the board. This is the same meeting where Trustee Landry communicated her belief that this was part of a conspiracy by Mr. Kelly.

Investigator Hawkins asked Mr. Kelly about the item in his May 28, 2023 email pertaining to the rescheduling of the meeting regarding hiring a new Superintendent. Mr. Kelly said that the meeting was originally scheduled for the week of April 22 but all of the trustees had a meeting and, due to travel plans of Trustees Ching and Landry, it was moved to the weekend of either April 15 or April 22. Subsequently, the consultant assisting with this search sent an email moving it to mid-May. Mr. Kelly believes this was done due to private communications by and between Trustees Ching and Landry and the consultant. Mr. Kelly believes the reason they moved the meeting was because they understood that by moving it to mid-May it would decrease the likelihood of finding a new Superintendent. This is because by mid-May the applicant would be smaller given that a large number of applicants would have already taken positions at other schools. Mr. Kelly said that he believes Trustees Ching and Landry wanted a smaller applicant pool [REDACTED].

Investigator Hawkins next asked Mr. Kelly about the item in his May 28, 2023 email regarding the "highly irregular creation of a study session agenda." Mr. Kelly said that this took place during the March 25, 2023 special board meeting. Mr. Kelly said the Chief of Police was at the meeting to present about the addition of a school resource officer at Sonoma High School. Mr. Kelly said that he had advised the public that this issue would only be discussed at regular board meetings and not at special board meetings. Mr. Kelly said that [REDACTED] subsequently told him that [REDACTED] for the failure to properly include this

item on the agenda. Mr. Kelly said that he believes this failure to adhere to norms and proper protocol was done to benefit people who were in favor of advancing these unnoticed items – Trustees Ching and Landry.

Mr. Kelly also mentioned Trustee Ching unilaterally changed agenda items to benefit her school – Prestwood Elementary.

Mr. Kelly stated during the interview that he has issues with [REDACTED] and wants him removed from the communication chain relating to this investigation. He also said that the [REDACTED] – is going to have issues with being neutral. Mr. Kelly recommends that a replacement be [REDACTED]

On May 26, 2023, Investigator Hawkins conducted a brief follow-up interview with Mr. Kelly. During this discussion, Investigator Hawkins clarified Mr. Kelly's prior statements regarding the SEAC. Investigator Hawkins also asked Mr. Kelly his opinion as to why he is being harassed. Mr. Kelly stated his belief that this is being done for a variety of reasons.

As for Trustee Landry, he believes she is harassing him because she opposed his planned consolidation and advanced the argument that it was due to corruption in order to oppose that plan.

As for Trustee Ching, Mr. Kelly believes she is politically opposed to Mr. Kelly and also dislikes him. Mr. Kelly said that when he was first elected he butted heads with a very popular

Superintendent, who then decided to resign. He believes that Trustee Ching supported that Superintendent, which is why she dislikes him.

[REDACTED]

Mr. Kelly said that there are lots of interested parties in the District and that many see him as a rogue Trustee and attack him personally rather than attacking his ideas.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Investigator Hawkins asked [REDACTED] how often [REDACTED] attends board meetings. [REDACTED]

Investigator Hawkins asked [REDACTED] if [REDACTED] believes that any Trustee has made any slanderous or troubling statements about or towards Mr. Kelly. [REDACTED] said no.

Investigator Hawkins asked [REDACTED] if [REDACTED] recalls the March 9, 2023 board meeting. [REDACTED] said that this was the board meeting where Mr. Kelly proposed his plan. [REDACTED] said that tensions were running high and that while there was some hostility from the public, [REDACTED] does not recall any member of the board acting unprofessionally or inappropriately.

[REDACTED]

[REDACTED] also noted that during the March 9 meeting Mr. Kelly kept saying to the public that this was only for discussion purposes. This was incorrect as he put it on the agenda as an action item.

Investigator Hawkins asked [REDACTED] if [REDACTED] recalled any unprofessional or slanderous statements made by Trustee Landry against Mr. Kelly. [REDACTED] said that [REDACTED] had not. [REDACTED]

Investigator Hawkins asked [REDACTED] of his opinion regarding how Trustee Ching handled the board meeting. [REDACTED] said that when Mr. Kelly was President he ran a very tight meeting. This has changed since his departure and Trustee Ching has continued the trend of mismanaged board meetings. [REDACTED] does not believe this has been done intentionally or directed only

towards Mr. Kelly. For example, one thing [REDACTED] mentioned is allowing very long public comment periods. This happens towards most items, not just Mr. Kelly's.

Investigator Hawkins asked [REDACTED] about [REDACTED] recollection of the March 25, 2023 board meeting. [REDACTED] said that it was similar to the March 9, 2023 board meeting. The crowd was upset and yelling stuff at Mr. Kelly and he yelled back.

[REDACTED] said that Mr. Kelly frequently puts himself into the crossfire of situations and that any negative actions towards him have been because of his conduct, not for any unlawful reasons.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] said that [REDACTED] has not seen anything suggesting any discrimination, retaliation, harassment, or hostile work environment. If anything, Mr. Kelly has created a hostile work environment for others.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On the morning of the interview, Investigator Hawkins received an email from Mr. Kelly communicating that [REDACTED] had reached out to him with a question regarding the scope of the interview. [REDACTED] also disclosed this contact during the interview. Investigator Hawkins did not find this contact to be questionable and it did not affect [REDACTED] credibility.

Investigator Hawkins asked [REDACTED] about [REDACTED] relationship with Mr. Kelly. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Investigator Hawkins asked [REDACTED] if [REDACTED] attended the March 9 and March 25 board meetings.

[REDACTED]

[REDACTED] recalls that there was significant hostility from the large parent group in attendance at that meeting towards Mr. Kelly. [REDACTED] also recalls some “veiled hostility” from some of the other trustees towards Mr. Kelly. Investigator Hawkins asked [REDACTED] if [REDACTED] found this “veiled hostility” to be shocking and [REDACTED] said that it was definitely not shocking but present.

[REDACTED] also mentioned that [REDACTED] felt shocked at the lack of procedural decorum at the March 9 board meeting. [REDACTED] said that the board’s President allowed the public to boo and cheer at Mr. Kelly without any reminders to the crowd about proper decorum, which [REDACTED] found to be inappropriate. [REDACTED] felt disappointed that the board President – Ms. Ching – did not take further steps to enforce proper decorum.

[REDACTED] also mentioned receiving something regarding the selection process for a new Superintendent. [REDACTED] said that in this material was a statement from Ms. Ching about how Mr. Kelly was forcing the board to rush through the selection process. [REDACTED] found this puzzling

because [REDACTED] understands that a single Trustee cannot accomplish anything by themselves. As such, Ms. Ching's complaint did not seem legitimate.

Investigator Hawkins asked [REDACTED] if [REDACTED] had ever had any personal contact with [REDACTED], Ms. Ching, or Ms. Landry. [REDACTED]

Investigator Hawkins asked [REDACTED] if [REDACTED] had discussed Mr. Kelly's complaints with him. [REDACTED] said that [REDACTED] had not, with the exception of emailing him that morning to ascertain which meeting they were going to discuss.

Investigator Hawkins asked [REDACTED] if [REDACTED] had any final comments. [REDACTED] said that [REDACTED] only comment would be [REDACTED] general observation that there is some negative attitudes from Ms. Landry and Ms. Ching towards Mr. Kelly.

Trustee Landry

On July 18, 2023, Investigator Hawkins interviewed Trustee Catarina Landry. Trustee Landry is currently the Trustee for Area 1. Trustee Landry has held this position since December 2022.

Investigator Hawkins asked Trustee Landry how long she has known Mr. Kelly. Trustee Landry said that she has known Mr. Kelly for the past 12 or 13 years [REDACTED]

Investigator Hawkins asked Trustee Landry if she recalled the events that took place at the March 9, 2023 board meeting. Trustee Landry said that she recalls the events taking place at this meeting. Trustee Landry said that she recalls Mr. Kelly putting forth an agenda item and that the first time she saw this item was in a local paper as Mr. Kelly had placed it in the local paper without the benefit of any context. Trustee Landry said that Mr. Kelly's agenda item represented his ideas as to what the consolidation and reconfiguration plan in the District should look like. Trustee Landry said that this item was interpreted by many in the District as the District's initial proposal. This was incorrect as it represented only Mr. Kelly's proposal.

Trustee Landry said that she showed up at the board meeting and that it went into closed session. Prior to voting on Mr. Kelly's proposal, which was placed as an action item, there was public comment on the proposal. Trustee Landry said that the entire office where the meeting was held was packed. Trustee Landry said that the public expressed serious concerns regarding Mr. Kelly's proposed plan and that the public comment portion lasted for at least three hours. She said that members of the public called into the meeting, stood up, were angry, and were scared.

Trustee Landry said that the initial plan was to vote on the motion but that it became clear that it wasn't going to pass. At that point there was an idea to amend the motion to simply allow for a discussion regarding the proposed plan. It was very confusing and insulting and she recalls

making statements to the effect that Mr. Kelly's actions represented an unacceptable way to communicate with the community and that board members aren't supposed to act individually; they are supposed to act as a board. Trustee Landry said that she apologized to the community and told them that this conduct was unacceptable. She also told Mr. Kelly that she wasn't going to entertain his idea and didn't believe his statement that he created a 20-minute presentation with 15 to 25 slides simply to have a conversation. She then asked President Ching if she could direct a question to legal, which request was granted. She asked for a motion on this item and an additional one pertaining specifically to Dunbar School.

Trustee Landry said that at a certain point Mr. Kelly made a statement to Trustee Landry in anger that we should never assume ill will on behalf of each other. Trustee Landry responded and said that she wasn't assuming anything; she was taking a position and expressing an opinion.

Investigator Hawkins asked Trustee Landry if she recalled making a statement that Mr. Kelly's actions constituted a conspiracy with the union and/or were illegal and unethical. Trustee Landry vehemently denied making these statements.

Investigator Hawkins asked Trustee Landry whether President Ching handled this situation appropriately as President of the board. Trustee Landry said that President Ching tried her best to control the situation but that Mr. Kelly was being very aggressive and interrupting people, commenting back as if it was an argument. Trustee Landry said that it got to the point where President Ching was trying to stop Mr. Kelly but he wouldn't listen. Trustee Landry said that she had no choice but to call "point of order" and sanction Mr. Kelly's inappropriate conduct. Trustee Landry said that President Ching tried to control the situation but Mr. Kelly couldn't be controlled.

Investigator Hawkins asked Trustee Landry if she recalled the March 25, 2023 board meeting. Trustee Landry said that she kind of conflates this board meeting with the March 9, 2023 board meeting and has some difficulties distinguishing between the two meetings. In response to Investigator Hawkins' questions as to whether she made any inappropriate or unprofessional comments towards Mr. Kelly, she said that she understands that the community and children are

watching her at board meetings and she would never do anything to embarrass herself. She said that Mr. Kelly is making these allegations because Trustee Landry doesn't agree with him.

Investigator Hawkins asked Trustee Landry if she was involved in the decision to censure Mr. Kelly. She said that she was not.

[REDACTED]

[REDACTED]

Investigator Hawkins asked Trustee Landry about Mr. Kelly's allegations relating to the hiring of a new Superintendent. Trustee Landry disagreed with Mr. Kelly's allegations that she or President Ching took steps to delay the application process [REDACTED]. Trustee Landry said that the District hired a firm to assist with the hiring process [REDACTED]. The firm was hired to avoid any conflict. Trustee Landry said that the firm they hired – "HYA" – coordinated scheduling and that all of the trustees provided their availability and that no dates were changed due to Trustee Landry's vacation.

Investigator Hawkins asked Trustee Landry about Mr. Kelly's allegations relating to the December 2021 California School Board dinner in San Diego. Trustee Landry confirmed that she did not attend this event.

Investigator Hawkins asked Trustee Landry about Mr. Kelly's allegations relating to the study session agenda for the May 28, 2023 study session not being provided in a timely fashion. Trustee Landry stated that she does not recall this issue in the specific context of the May 28, 2023 study session but does recall Trustee Winters bringing up this issue. Trustee Landry said that [REDACTED] and President Ching could speak better on this issue. [REDACTED]

[REDACTED] Investigator Hawkins asked Trustee Landry what the specifics of the issue were and Trustee Landry said that some trustees felt that they weren't receiving the same information as other trustees. Trustee Landry said that she didn't feel these complaints were legitimate and that the issue may have been that certain trustees ask a lot of the staff and this causes a backlog in the staff being able to provide information and satisfy the requests of these trustees.

Investigator Hawkins asked Trustee Landry about Mr. Kelly's allegations relating to President Ching unilaterally changing certain agenda items to benefit her school. Trustee Landry said that

she has not seen anything to support this claim. If anything, she believes Mr. Kelly has done this.

Trustee Landry stated her opinion that these allegations are a distraction and that it's unfortunate she and President Ching have to go through this process.

Trustee Landry was accompanied during this interview by her attorney, Elizabeth Serres. Ms. Serres made certain supportive comments during the interview but was not obstreperous.

Trustee Ching

On July 24, 2023, Investigator Hawkins interviewed Trustee Anne Ching. Trustee Ching is currently the President of the District's Board of Trustees. She has held that position since December 9, 2022 and has been a Trustee since 2020. President Ching was accompanied during the interview by her attorney, Emily Charley of Hanson Bridgett.

Investigator Hawkins asked President Ching how long she has known Mr. Kelly. President Ching said that she has known Mr. Kelly since 2016 and prior to her election as she regularly attended board meetings as a member of the community. She has no personal relationship with Mr. Kelly.

Investigator Hawkins asked President Ching whether she attended the March 9, 2023 board meeting. President Ching attended that meeting. Investigator Hawkins asked President Ching whether she recalled Mr. Kelly's motion regarding consolidation. President Ching said that she recalled that motion.

Investigator Hawkins asked President Ching if she recalls Trustee Landry making any statements towards Mr. Kelly to the effect of that his proposal was a conspiracy with the union and was illegal and unethical. President Ching said that she does not recall Trustee Landry making those statements. President Ching also said that she would have remembered those statements and that those statements don't make sense to her as there would be no reason for any of the relevant unions to partner with Mr. Kelly and that several union members made public comments at the meeting in opposition to Mr. Kelly's proposal.

President Ching agreed that the community was hostile at the meeting and she recalls heckling from the public. President Ching said that she tried to calm them down but as a newly appointed board President she is always walking a fine line in regards to when it's permissible to tell members of the public not to say what they want to say. President Ching also said that she took board President governance training and recalls being told that there is rarely a circumstance where the public can be stopped from making statements at the podium.

Investigator Hawkins asked President Ching whether she recalled the March 25, 2023 board meeting. President Ching said that she recalled that meeting and that it became contentious.

President Ching said that she recalled Mr. Kelly repeatedly interrupting her while she was trying to act calmly and professionally. She also recalled Mr. Kelly repeatedly interacting with the public, which was a nontraditional practice. President Ching didn't intervene during those interactions so as not to exacerbate the hostility.

President Ching said that the March 25 meeting was not as tense as the March 9 meeting.

Investigator Hawkins asked President Ching whether she recalled any unprofessional statements by Trustee Landry at the March 25 meeting towards Mr. Kelly. President Ching said that she did not recall any such statements. She recalls Mr. Kelly trying to talk over President Ching when she tried to use her gavel to calm things down, and at a certain point Trustee Landry said that Mr. Kelly's actions were disrespectful and that he shouldn't behave in that fashion.

Investigator Hawkins asked President Ching about Mr. Kelly's claim that the improper notice was given for the special session occurring on March 25, 2023. President Ching stated her understanding that the notice given for special meetings was the same as for regular board meetings – 72 hours advance notice to the public. President Ching is unaware of anything in the bylaws or board protocols that limits what can be discussed at "special meetings," which are also styled as "study sessions." While there is a practice that study sessions are only used for discussion items and deeper discussions regarding certain issues, she is unaware of any bylaws or practices requiring this.

President Ching also discussed the specifics of the creation of the agenda for the March 25 special meeting. She stated that at the March 9 meeting there was a proposal put forth regarding realignment and that it was continued to the March 25 special meeting in order to provide additional time for the public and parents to receive information. There was also a desire to vote on that item prior to the next regular meeting to avoid that issue being kept in abeyance for an extended period of time.

Investigator Hawkins asked President Ching whether she was involved in the decision to censure Mr. Kelly. President Ching said that she was a member of the subcommittee that developed the censure.

[REDACTED]

[REDACTED]

Investigator Hawkins asked President Ching about her recollection concerning the interview and selection process for picking a new Superintendent and Mr. Kelly's claim that the interview

schedule was unilaterally changed due to a request made by Trustee Landry and President Ching. President Ching denied this allegation and stated that an independent consulting firm – HYA – was hired for this process and that after they discussed with the board an aggressive schedule for interviews they reached out to President Ching to request more time to conduct due diligence. While normally the board President would not be the contact for these communications, it would be the Superintendent, they contacted President Ching [REDACTED]. In response to HYA's communications, President Ching had HYA prepare a memorandum for consideration by the entire board. The board was upset about the memorandum and President Ching conducted a special session to discuss the changes with HYA. President Ching denied any involvement with continuing those dates or obtaining a new schedule.

Investigator Hawkins asked President Ching whether she recalled the December 2021 California School Board Association Annual Education Conference dinner in San Diego and any statements by [REDACTED] regarding disbanding the SEAC. President Ching said that she did not recall those statements by [REDACTED]. Ms. Charley instructed her client not to answer any further detailed questions regarding this issue due to its connection to a prior criminal charge.

Investigator Hawkins asked President Ching whether she had any individual private communications with Perkins Eastman. President Ching said that she conducted a brief search of her records and had no such records. She said that all communications with Perkins would have been with the current Superintendent.

Investigator Hawkins asked President Ching whether she made any unilateral changes to the board agenda to benefit her school. President Ching said that she has never made any unilateral changes and that the agenda is created collaboratively between the Superintendent and the board President.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Review of March 9, 2023 Board Meeting and March 25, 2023 Study Session

March 9, 2023 Board Meeting

Investigator Hawkins did not find any evidence supporting Mr. Kelly's allegations pertaining to statements allegedly made by Trustee Landry towards him. During both board meetings there were multiple public comments made that were hostile towards Mr. Kelly. President Ching did not admonish the public in regards to these statements.

President Ching and Trustee Landry's statements regarding the events occurring at the March 9, 2023 board meeting are consistent with the recorded events at this meeting.

March 25, 2023 Study Session

Investigator Hawkins did not find any evidence supporting Mr. Kelly's allegations pertaining to allegedly improper conduct towards him by Trustee Landry and President Ching. If anything, Investigator Hawkins observed Mr. Kelly engaging in behavior tending to obstruct the proceedings. These included: interrupting President Ching during her comments and ignoring President Ching's requests for him to cease his interruptions. President Ching did push back on these efforts and Trustee Landry commented on the negative environment. Investigator

Hawkins, however, did not find any of the communications from President Ching or Trustee Landry to be inappropriate, unprofessional, or defamatory.

President Ching and Trustee Landry's statements regarding the events occurring at the March 25, 2023 study session are consistent with the recorded events at this meeting.

FINDINGS

At issue in this investigation are Mr. Kelly's complaints that he has been subjected to a hostile work environment by Trustees Ching and Landry and [REDACTED]. Mr. Kelly points to the following alleged events to support this claim:

- The rescheduling of the search for the Superintendent, *summarily*, to suit the vacation schedules of Anne Ching and Catarina Landry.
- The highly irregular creation of the study session agenda, without even the cursory Brown Act description given for the agenda item concerning student safety, and the obvious failure to provide materials regarding the status of Dunbar School to the public in advance. Further, the special meeting notice provisions were used when the District has been clear that the notice required for a regular meeting will be given regarding all school realignment decisions. In addition, regarding the school safety item, [REDACTED].
- The zoo-like atmosphere in the meeting room on March 9 and March 25, with members of the public cheering and booing without correction. This is wildly inconsistent with the practice of the District. Indeed, it appears this behavior is not only tolerated by the board President but perhaps is being encouraged by her and targeted at Mr. Kelly. This is not reflective of board policy regarding the holding of meetings.
- Repeated communications and requests for information from Anne Ching directed at HYA and Perkins Eastman, with information being provided in return without those answers being provided to all trustees. This is a straight violation of board policy. All trustees must be provided all information received by any Trustee in order to do their job, and must do so *before* an agenda item is reviewed.
- The accusation of Mr. Kelly's participation in a criminal conspiracy by Catarina Landry at the March 9 board meeting, without any evidence whatsoever supporting the allegation. Further, the board President did nothing to address the improper behavior.
- [REDACTED]

[REDACTED]

Investigator Hawkins' findings regarding these allegations are as follows:

Relevant Board Policies

District Board Policy 4030 provides in relevant part:

The Governing Board is determined to provide district employees, interns, volunteers, and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to all district employees and, to the extent required by law, to interns, volunteers, and job applicants.

. . . .

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation or his/her association with a person or group with one or more of these actual or perceived characteristics.

Analysis

Harassment

California law and the District's Board Policies prohibit harassment based on a protected classification – that is, race, gender, national origin, etc. (Gov't Code § 12940(j).) In order to establish a prima facie case of harassment, a plaintiff must show that (1) they are a member of a protected class, (2) they were subject to unwelcome harassment, (3) the harassment was based on a protected characteristic, (4) the harassment unreasonably interfered with work performance by creating an intimidating, hostile, or offensive work environment, and (5) the employer is liable for the harassment. (*See Thompson v. City of Monrovia* (2010) 186 Cal.App.4th 860, 876.)

As stated above, Mr. Kelly has accused Trustees Ching and Landry and [REDACTED] of creating a hostile work environment. [REDACTED]

[REDACTED] there is a question of whether that law or policy governs Trustees Ching and Landry due to their status as elected officials. With that said, that analysis can be avoided in this case because Mr. Kelly has not alleged that he was harassed due to his race, gender, age or another protected classification. Specifically, Mr. Kelly has explicitly stated his belief that (1) Trustee Landry is harassing him because she opposed his planned consolidation and advanced the argument that it was due to corruption in order to oppose that plan, (2) Trustee Ching harassed him because she is politically opposed to Mr. Kelly and dislikes him due to the fact that he opposed a very popular Superintendent that President Ching supported, and (3) [REDACTED]

[REDACTED]. Given these statements along with the statements from other witnesses, Investigator Hawkins cannot conclude that President Ching, Trustee Landry, or [REDACTED] has subjected Mr. Kelly to a hostile work environment as defined by California law and District policy.

With that said, and while the prior analysis is dispositive of this investigation, Investigator Hawkins does find it necessary to briefly comment on a select few of Mr. Kelly's allegations. As stated above, Mr. Kelly alleges that during the March 9 and/or March 25, 2023 board meetings, Trustee Landry made statements accusing Mr. Kelly of presenting a plan constituting a conspiracy with the union, and that was both unlawful and unethical. Mr. Kelly relatedly alleged that President Ching supported these statements and allegations by Trustee Landry by failing to address them during the board meetings.

Investigator Hawkins has reviewed the recordings of both the March 9 and March 25 board meetings and has determined that Trustee Landry did not make the statements attributed to her by Mr. Kelly.

As for Trustee Kelly's complaints regarding the conduct of the public at these meetings and President's Ching's response to those comments, Investigator Hawkins does agree with Trustee Kelly that the public's attitude towards him at these meetings was hostile. Investigator Hawkins also agrees that President Ching did not take steps to admonish the public regarding this behavior. While there is a question as to whether President Ching should have done more in this area, Investigator Hawkins determines that President Ching's failure to take any steps to calm the public was not for any improper or unlawful purpose. Rather, President Ching was concerned that any admonishment would increase the hostility or hinder the public's right to comment at public meetings.

[REDACTED]

[REDACTED]

As for Mr. Kelly's allegations/complaints regarding (1) the rescheduling of the search for the Superintendent, (2) the creation of the study session agenda, (3) the conduct of the public at the March 9 and March 25 board meetings, and (4) communications and requests by and between President Ching and third parties HYA and Perkins Eastman, Investigator Hawkins concludes that these allegations are either unsupported by the evidence OR were not specifically directed to Mr. Kelly to constitute either the creation of a hostile work environment or a violation of District policy. As for the lack of evidentiary support on these issues, Investigator Hawkins found President Ching and Trustee Landry's testimony statements to be reliable and consistent. Investigator Hawkins also finds it relevant that there was a significant divergence between certain of Trustee Kelly's representations regarding events taking place at the March 9 and March 25 meetings and the depictions of those meetings in the recordings reviewed by Investigator Hawkins. This divergence does negatively impact Trustee Kelly's credibility on these issues.

Based on the evidence, Investigator Hawkins finds that the preponderance of the evidence DOES NOT support a conclusion that President Ching, Trustee Landry, or [REDACTED] have harassed Trustee Kelly and assisted in the creation of a hostile work environment or otherwise violated California law or District policy.

Exhibit A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

From: **John Kelly** <jkelly.trustee@sonomaschools.org>

Date: Tue, Mar 28, 2023 at 10:04 AM

Subject: [REDACTED]

To: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This comes after a series of very concerning events:

1. The rescheduling of the search for the Superintendent, *summarily*, to suit the vacation schedules of Anne Ching and Catarina Landry.
2. The highly irregular creation of the study session agenda, without even the cursory Brown Act description given for the agenda item concerning student safety, and the obvious failure to provide materials regarding the status of Dunbar School to the public in advance. Further, the special meeting notice provisions were used when SVUSD has been clear the notice required for a regular meeting will be given regarding all school realignment decisions. In addition, regarding the school safety item, [REDACTED].
3. The zoo-like atmosphere in the meeting room on March 9 and March 25, with members of the public cheering and booing without correction. This is wildly inconsistent with the practice of the District. Indeed, it appears this behavior is not only tolerated by the board president but perhaps is being encouraged by her and targeted at me. This is not reflective of our board policy regarding the holding of our meetings.
4. Repeated communications and requests for information from Anne Ching directed at HYA and Perkins Eastman, with information being provided in return without those answers being provided to all trustees. This is a straight violation of board policy. All trustees must be provided all information received by any trustee in order to do their job, and must do so *before* an agenda item is reviewed.
5. The accusation of my participation in a criminal conspiracy by Catarina Landry at the March 9 board meeting, without any evidence whatsoever supporting the allegation. Further, the board president did nothing to address the improper behavior.
6. [REDACTED]

I believe there is a pattern of elements leading to the creation of a hostile work environment for me.

1. I am not receiving the information necessary for me to do my job as a trustee.
2. I am receiving disparate treatment in the conduct of board meetings.
3. [REDACTED]
4. I am not receiving appropriate notice of proposed action by the Board.
5. I am not timely receiving supporting materials for Board items.
6. I am being accused of crimes baselessly in board meetings, an issue compounded by the failure of the board president to act promptly with correction action.
7. I am facing rescheduling of meetings previously agreed to by the trustees without discussion or even being provided the communications that are leading to such "decisions."

I as a trustee do not have to tolerate this. It is the duty of SVUSD, through the Superintendent, to address a hostile work environment faced by any employee of the District. In this context, the trustees are entitled to the same workplace protections as any other employee of our District. I expect you to take action to address this. As John Lewis pointed out, "[w]hen you see something that is not right, not fair, not just, you have to speak up. You have to say something; you have to do something." To date, you have done nothing.

Sincerely,

John

John Kelly

Trustee, Area 3

Sonoma Valley Unified School District

jkelly.trustee@sonomaschools.org

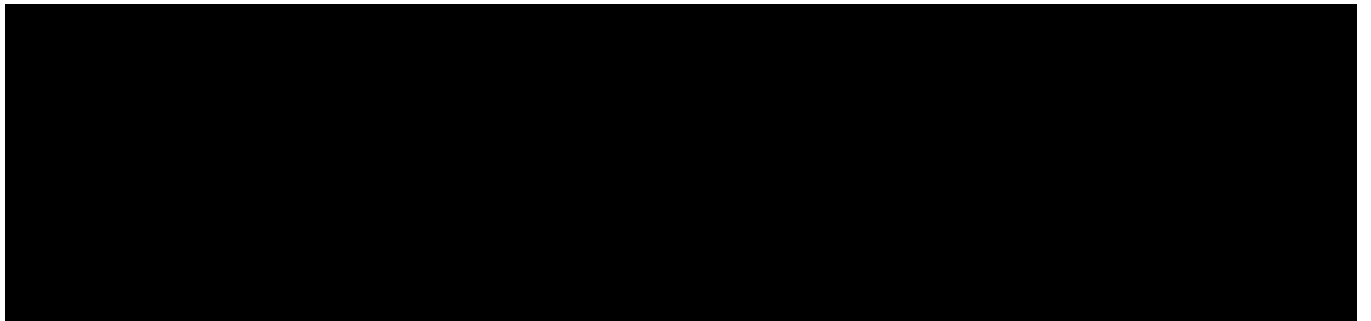


Exhibit B

From: [John Kelly](#)
To: [Hawkins, Bryan L.](#)
Subject: [REDACTED]
Date: Monday, May 15, 2023 12:15:35 PM



Dear Mr. Hawkins:

Please find below the email from [REDACTED].

Sincerely,

John

John Kelly
Trustee, Area 3
Sonoma Valley Unified School District
jkelly.trustee@sonomaschools.org
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]