



Fagen Friedman & Fulfroft LLP

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June 1, 2020

Via U.S. Mail and E-Mail  
[REDACTED]

Mr. Chris Carson  
[REDACTED]

Re: Final Decisions in Response to Complaint

Dear Mr. Carson:

We write on behalf of the National School District's ("District") Governing Board. This letter responds to your complaints regarding the actions of District employees, Dr. Sharmila Kraft, Dr. Leticia Hernandez, and Dr. Leighangela Brady. Furthermore, this correspondence also constitutes notification regarding the disposition of complaints lodged against you by Dr. Sharmila Kraft, Dr. Leticia Hernandez, and [REDACTED].

### **SUMMARY OF THE COMPLAINTS**

You originally filed a complaint against Dr. Kraft regarding concerns related to spending from the Educational Services Department. You subsequently added complaints of retaliation, hostile work environment, and discrimination against Dr. Kraft, Dr. Brady, and Dr. Hernandez. Generally, you expressed concerns regarding the installation of school gardens, alleged "sweetheart contracts" to Dr. Brady's friends, and costs associated with staffing of psychologists, counselors, and language arts specialists in light of certain staffing, budgeting, and special education needs and requirements. You also alleged you did not know certain items would appear on Board agendas. You made several claims which you described as "retaliation," including against Dr. Brady for directing you to not meet along with those who you had filed complaints against or who had filed complaints against you. You believed it was retaliation for Dr. Kraft to refer certain budget questions from SDCOE to you. You also believed it was retaliation when Dr. Kraft requested SDCOE train her on how to run budget reports and when Dr. Brady asked questions of SDCOE while attempting to gain clarity regarding budget and LCAP questions. Moreover, some of your complaints are in the form of statements that you provided certain advice or information and that such advice was not always followed or that certain employees knew the impact of certain decisions or actions.

Dr. Hernandez's complaint alleged you subjected her to discrimination. Specifically, Dr. Hernandez alleged that you made false accusations of her which affected her work environment and caused her to feel stressed and targeted. She further alleged that you directed staff not to meet with her. Dr. Hernandez also alleged that you did not want her to earn the position of Assistant Superintendent, and alleged you preferred a male principal for the role. She alleged you referred to her as a "token Latina" and believes your treatment of her was because she is "a woman and Mexican."

Dr. Kraft's complaint alleged you subjected her to a hostile work environment and discrimination. Specifically, Dr. Kraft alleged you made a series of uncomfortable verbal comments to her. She further alleged you made comments regarding her skin color and markings on her skin. Dr. Kraft complained that you violated her personal space to establish control and dominance over her. She believe she had been the target of your temper and intimidation. Dr. Kraft stated she believed this conduct occurred because she is "an educated competent woman."

██████████'s complaint alleged you created a hostile work environment. Generally, ██████████ felt intimidated when you had aggressively and authoritatively conducted an investigation into the keeping of petty cash locked at her school site. She also alleged that you accused her of money laundering and failure to follow District protocols as a result. ██████████ alleged your conduct felt threatening and caused her distress.

## **INVESTIGATION**

Independent investigators David Sobel and Amy Irving of The Sobel Group conducted a large scale investigation into several related complaints and counter-complaints. During this investigation, The Sobel Group interviewed 27 witnesses over the course of 46 separate interviews. The independent investigators also reviewed District Board Policies, Rules and Regulations, and several other related documents or evidence submitted by witnesses and complainants.

## **FINDINGS OF FACT**

Based on the interviews conducted, in conjunction with an examination of relevant documents, emails, various financial data reports, and additional supporting documentation as part of this inquiry, The Sobel Group made the following factual findings related to your complaints and allegations:

1. Based on supporting documentation and a statement from Superintendent Leighangela Brady, Ed.D., there is sufficient evidence to show the Rady Children's Hospital March 13, 2019 Agenda Item was discussed in a Cabinet agenda planning meeting on February 20, 2019 and was documented "will create Board item for next Board meeting."

2. Based on statements from Dr. Brady, [Redacted Witness Name], [Redacted Witness Name], and [Redacted Witness Name] and Assistant Superintendent of Educational Services Sharmila Kraft, Ed.D., there is sufficient evidence to show the school gardens are encouraged among the NSD employees and community, and they were mostly donated. Additionally, there is sufficient evidence to show the gardens are not simply used to grow vegetables and/or fruit.
3. Based on statements from District Administrators, there is sufficient evidence to show, as of October 2019, work performed by Healthy Day Partners has been volunteer only and the District is not required to use their services and/or adhere to their suggestions.
4. Based on documentation and statements from District administrators, there is sufficient evidence to show the selection of BCK Programs, LLC went through the proper approval process including Board approval.
5. Based on documentation and statements from District administrators, there is sufficient evidence to show additional monies spent with BCK Programs, LLC were also Board approved.
6. There is not sufficient evidence to show BCK Programs, LLC has a “sweetheart” contract with NSD.
7. Based on documentation, there is sufficient evidence to show the District had ten psychologists on payroll on November 2, 2018, ten psychologists on payroll on May 2, 2019 and ten psychologists on payroll on March 5, 2020. Based on statements from the respondents, there is not sufficient evidence to show the Human Resources Department has posted a psychologist position to increase the number of psychologists in the District above ten. There is not sufficient evidence to show the District hired ten counselors.
8. Based on statements from complainant and respondents, there is sufficient evidence to show factors influencing the increase in Special Education (SPED) costs (Maintenance of Effort – MOE) include increased legal costs, benefits for SPED staff, and an additional fifteen minutes on each three-hour instructional aide position (now three hour and fifteen minute positions).
9. Based on documentation and statements by the respondents, there is sufficient evidence to show the District hired two additional counselors between November 2018 and May 2019. The District had eight counselors on payroll on November 2, 2018, ten counselors on May 2, 2019, and ten counselors on March 5, 2020.

10. There is not sufficient evidence to show the two additional counselor positions affected the SPED budget and/or MOE.
11. Based on documentation and witness statements, there is sufficient evidence to show Dr. Kraft used Goal 6, Action 4 from the LCAP to fund one counselor at each school.
12. Based on documentation, respondent, and witness statements, there is sufficient evidence to show the Language Arts Specialist (LAS) coding has been changed, but not specifically the amount of money spent.
13. Based on statements from witnesses and respondents, there is sufficient evidence to show the assistant superintendent of Educational Services and the director of Finance have historically worked together on the principal budget memos and then sent them out to the principals. Further, there is sufficient evidence to show the assistant superintendent of Business Services has historically not been involved with this procedure, however in 2019 for an unknown reason [Redacted Witness Name] asked Dr. Kraft to show these (budget memos) to Mr. Carson which was not prior practice.
14. Based on documentation and witness statements, there is sufficient evidence to show Teachers on Special Assignment (TOSAs) [Redacted Name] and [Redacted Name] were previously coded to LCAP and LCAP carryover, but were moved to Title III in May 2019, prior to Mr. Carson's complaint and with his knowledge.
15. There is sufficient evidence to show multiple District administrators reported there was a certified teacher ([Redacted Name]) funded by Title I funds even though she is on loan to the University of California San Diego. The administrators reported this teacher is not doing work at the District and therefore cannot be funded under Title I funds. This employee was being funded under Title I funds in November 2018 and was moved out of Title I to LCAP carryover on May 24, 2019.
16. Based on complainant and respondent statements, there is sufficient evidence to show Mr. Carson "overheard" a conversation between Dr. Hernandez and Dr. Kraft where they were researching how to use enrichment teachers' unassigned time more efficiently. Dr. Brady reported she asked them to also research how much it would cost to increase the enrichment teachers' hours so they would teach weekly as opposed to biweekly. Dr. Brady reported as part of this research they sent out notifications to the sites which would allow them to make a change to the teachers' schedules if they decided to move forward with any of these adjustments. Dr. Brady reported they did not move forward with any of these changes.

17. There is not sufficient evidence to support Mr. Carson's complaint that other Cabinet members are "spending wildly."
18. While interviews of witnesses show there is evidence Dr. Brady instructed staff members to research the cost of new furniture for school sites, there is not sufficient evidence to show she (Dr. Brady) earmarked four million five hundred thousand dollars (\$4,500,000) to be spent on the furniture.
19. Based on documentation and respondent statements, there is sufficient evidence to show the San Diego County Office of Education sent multiple requests to speak to the Business Services Department regarding the District LCAP and a lack of follow-up or response from Mr. Carson. Mr. Carson reported he did not respond because he felt the questions were meant for Dr. Kraft even though the requests were directed specifically to Mr. Carson.
20. There is sufficient evidence to show Mr. Carson is being excluded from some budget meetings and discussions; however, it was determined through respondent and witness interviews that it is not (and has not historically been) normal practice for Mr. Carson to be included in all of these meetings.
21. Based on statements from the respondents, there is sufficient evidence to show hiring a technology teacher was discussed during Cabinet and they declined to move forward due to the potential cost, based on statements from the respondents.
22. Based on documentation, complainant, and respondent statements, there is sufficient evidence to show Dr. Brady filled out a workers' compensation form for Mr. Carson and denoted "stress" as the reason. There is also sufficient evidence to show Dr. Brady filed this form in the Payroll Department which is the District's protocol for workers' compensation form filings.
23. Based on witness statements, there is sufficient evidence to show during the August 30, 2019 unaudited budget review meeting several questions were asked and there was tension in this meeting. There is not sufficient evidence to show [Redacted Witness Name] said, "It was the most uncomfortable meeting she has ever attended" as [Redacted Witness Name] did not confirm this statement during her interview.
24. Based on documentation, there is sufficient evidence to show Dr. Brady asked Mr. Carson to not meet alone with Dr. Hernandez or Dr. Kraft until the investigation was complete. Additionally, there is sufficient evidence to show Mr. Carson did not always follow Dr. Brady's directive.

25. There is not sufficient evidence to show Dr. Brady, Dr. Kraft, or Dr. Hernandez have retaliated against Mr. Carson by requesting he not meet with them alone during the investigation.
26. There is not sufficient evidence to show Dr. Brady discriminated against Mr. Carson as a result of a perceived or stated disability by Mr. Carson when she encouraged Cabinet members to participate in yoga and meditation during a management retreat in July 2019. Mr. Carson stated he did not participate in yoga due to a knee injury. No evidence was presented to show Mr. Carson suffered negative repercussions and/or discipline by not participating in yoga.
27. Based on documentation, respondent, and witness statements, there is sufficient evidence to show Mr. Carson had knowledge there was a one million two hundred thousand dollar (\$1,200,000) purchase order (PO) which was input into the system in July 2016 as twelve million dollars (\$12,000,000), approved by the Board and then corrected the following month. There is sufficient evidence to show the original twelve million dollars (\$12,000,000) purchase order was not presented to the Board during the re-approval process of all July 2016 POs in 2019. (Note: Based on witness statements, the Board requested all original and corrected PO's for their review during the re-approval process in July and August 2019 and Mr. Carson had knowledge that the material presented to the Board did not include the original twelve million dollar (\$12,000,000) purchase order.)
28. There is not sufficient evidence to show Dr. Brady told Mr. Carson he was doing "the exact same thing as Sweetwater" or that Dr. Brady accused Mr. Carson of committing a crime. There are no percipient witnesses or corroborating evidence.
29. Based on witness and respondent statements, there is sufficient evidence to show Mr. Carson uses fear and intimidation when he manages subordinates and when communicating with classified, certificated, and Cabinet-level employees in the District.
30. Based on respondent statements, there is not sufficient evidence to show Dr. Hernandez made the comment quoted in Mr. Carson's July 25, 2019 email to Dr. Brady which reads "It is obvious from an independent that your staff is refusing to do the work when it is really their work!" Dr. Hernandez denied making this statement and there is no corroborating evidence.
31. Based on respondent and witness statements, there is sufficient evidence to show Mr. Carson was aware of certain calendar items and meetings and chose not to attend.

32. Based on complainant, respondent, and witness statements, there is sufficient evidence to show Mr. Carson is not providing complete information to Cabinet members and the Board.
33. Based on witness and respondent statements, there is sufficient evidence to show Mr. Carson has given a directive not to meet with certain people or departments.
34. There is sufficient evidence to show Mr. Carson holds District employees to a different standard than he holds himself.
35. There is sufficient evidence to show Mr. Carson is not transparent or does not completely communicate with other employees, departments, and the Board.
36. There is sufficient evidence to show Mr. Carson sometimes orders employees to do things that create more work for the employees and others, making their jobs more difficult than they need to be.
37. While there is not sufficient evidence to show persistent, pervasive or discriminatory behavior based on a protected class such as gender or race by Mr. Carson against any NSD employee, there is evidence to show some District employees made statements about how Mr. Carson treats women.
38. There is not sufficient evidence to show a pattern of retaliation where Dr. Kraft is “going after people.”
39. While there is sufficient evidence to show Dr. Hernandez and/or other Human Resources Department staff members have omitted account numbers or codes from new hire paperwork, there is not sufficient evidence to show they intentionally skipped steps by not obtaining the account numbers or codes from the Business Services Department.
40. Based on documentation, there is sufficient evidence to show Dr. Kraft knew adding a psychologist might increase MOE.

The Sobel Group made the following factual findings related the complaints lodged against you by Dr. Hernandez:

1. While there is no corroborating evidence or percipient witnesses to show Mr. Carson told Dr. Hernandez she is a “token Latina,” it is possible this could have been said because Mr. Carson did not specifically deny making this comment.

2. There is sufficient evidence to show Mr. Carson has directed his staff to come to him first on human resource related matters, rather than go to Human Resources.
3. There is sufficient evidence to show Mr. Carson lead an investigation regarding petty cash at [Redacted] School and did not alert Dr. Hernandez.
4. Based on witness statements and documentation, there is sufficient evidence to show Mr. Carson has used fear and intimidation when dealing Dr. Hernandez.
5. There is not sufficient evidence to show persistent, pervasive or discriminatory behavior based on a protected class such as gender or race by Mr. Carson against Dr. Hernandez.
6. Based on respondent statements, there is sufficient evidence to show several Cabinet members have had tire-related problems on their vehicles while parked at the District office. There is no evidence to show these tire problems were related to the current investigation or were caused by a District employee. Surveillance footage requested from the time period when Dr. Hernandez's tires were slashed is missing (or was deleted). The District's surveillance system is managed by an outside security company and falls under the purview of the Business Services Department. There is not sufficient evidence to show why the above referenced security footage was missing.

The Sobel Group made the following factual findings related the complaints lodged against you by Dr. Kraft:

1. Based on statements from Dr. Kraft and Dr. Hernandez, there is sufficient evidence to show Mr. Carson pointed out Dr. Kraft's birthmark and insisted it was a bruise. Mr. Carson did not deny making this comment.
2. There is sufficient evidence to show Mr. Carson gives the perception that he or his department has restricted Dr. Kraft's ability to perform her job duties, in particular when related to financial data availability.
3. There is sufficient evidence to show Dr. Kraft did not receive read only access to PeopleSoft until the investigation was in progress.
4. There is not sufficient evidence to show Dr. Kraft is overstaffing school psychologists. No corroborating evidence was presented.
5. There is not sufficient evidence to show Dr. Kraft is spending too much money on LCAP related expenditures. No corroborating evidence was presented.

6. There is sufficient evidence to show Mr. Carson uses fear and intimidation when communicating with Dr. Kraft.
7. There is sufficient evidence to show Mr. Carson gave a directive to some directors not to meet with Dr. Kraft at all or alone.
8. There is not sufficient evidence to show persistent, pervasive, or discriminatory behavior based on a protected class such as gender or race by Mr. Carson against Dr. Kraft.

The Sobel Group made the following factual findings related the complaints lodged against you by [REDACTED]:

1. While there is no corroborating evidence to show Mr. Carson accused [REDACTED] of money laundering, it is possible Mr. Carson used the words money laundering while speaking with [REDACTED] about keeping petty cash at her school site.
2. Based on respondent and witness statements, there is sufficient evidence to show there has been no written District guidelines for the school sites to use regarding the handling of cash.

### **CONCLUSIONS OF LAW AND DISPOSITION OF THE COMPLAINT**

Regarding your allegations of discrimination against Dr. Brady, Dr. Hernandez, and Dr. Kraft, there is no evidence that Dr. Brady, Dr. Hernandez, or Dr. Kraft caused you to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of your protected classes were given more favorable treatment. The facts established through the investigation do not support a finding of racial and gender discrimination.

Moreover, the facts established through the investigation do not support a conclusion that you were subjected to a hostile environment based on race or sex by any employee, including Dr. Brady, Dr. Kraft, and Dr. Hernandez.

Additionally, the facts established through the investigation do not support a conclusion that you were subjected to any adverse employment action by Dr. Brady, Dr. Kraft, and/or Dr. Hernandez. Therefore, there is not sufficient evidence to support a conclusion that you were subjected to retaliation.

Regarding Dr. Hernandez's allegations of discrimination against you, while you used fear and intimidation tactics against Dr. Hernandez, directed your staff to come to you first on human resource related matters, and conducted employee investigation without notifying Dr.

Mr. Carson  
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Hernandez's department, creating an unpleasant working experience, there is not sufficient evidence to support that you caused Dr. Hernandez to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of her protected classes were given more favorable treatment. The facts established through the investigation do not support a finding that your conduct and actions towards Dr. Hernandez were due to racial and gender discrimination.

Regarding Dr. Kraft's allegations of discrimination against you, while you used fear and intimidation tactics against Dr. Kraft and made comments regarding Dr. Kraft's birthmark creating an unpleasant working experience, and while despite your allegations there was not sufficient evidence to conclude that Dr. Kraft was overstaffing school psychologists or was spending too much money on LCAP, there is not sufficient evidence to support that you caused Dr. Kraft to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of her protected classes were given more favorable treatment. The facts established through the investigation do not support a finding that your conduct and actions towards Dr. Kraft were due to racial and gender discrimination.

Regarding Dr. Kraft's and [REDACTED]'s allegations that you created a hostile work environment, the evidence does not support a conclusion that your conduct and actions towards Dr. Kraft and [REDACTED], while objectionable, were motivated by their race, sex, age, sexual orientation, or any other protected category.

Since you are no longer a District employee, we hope these incidents are resolved.

### **COMPLAINANTS' APPEAL RIGHTS**

As the complainant, you may ask to address the Board regarding your complaint.

At this time the District will be closing its file with regards to this matter. If you have any questions or concerns regarding this response, please feel free to contact our office directly.

Respectfully,

FAGEN FRIEDMAN & FULFROST, LLP  
Attorneys for the National School District



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June 1, 2020

Via E-Mail

Dr. Leighangela Brady  
Superintendent National School District  
*lbrady@nsd.us*

Re: Final Decisions in Response to Complaint

Dear Dr. Brady:

We write on behalf of the National School District's ("District") Governing Board. This letter shall constitute the District's findings concerning allegations of discrimination, retaliation, and hostile work environment in a complaint filed by former District Assistant Superintendent of Business Services, Chris Carson.

### **SUMMARY OF THE COMPLAINTS**

Mr. Carson alleged that you discriminated against him, created a hostile work environment, and engaged in retaliation against him. Generally, Mr. Carson expressed concerns regarding the installation of school gardens, alleged "sweetheart contracts" to your friends, and costs associated with staffing of psychologists, counselors, and language arts specialists in light of certain staffing, budgeting, and special education needs and requirements. Mr. Carson also alleged he did not know certain items would appear on Board agendas. Mr. Carson made several claims which he described as "retaliation," including against you for directing him to not meet along with those who he had filed complaints against or who had filed complaints against him. Mr. Carson believed it was retaliation when you Dr. Brady asked questions of SDCOE while attempting to gain clarity regarding budget and LCAP questions.

### **INVESTIGATION**

Independent investigators David Sobel and Amy Irving of The Sobel Group conducted a large scale investigation into several related complaints and counter-complaints. During this investigation, The Sobel Group interviewed 27 witnesses over the course of 46 separate interviews. The independent investigators also reviewed District Board Policies, Rules and

Regulations, and several other related documents or evidence submitted by witnesses and complainants.

### **FINDINGS OF FACT**

Based on the interviews conducted, in conjunction with an examination of relevant documents, emails, various financial data reports, and additional supporting documentation as part of this inquiry, The Sobel Group made the following factual findings related to Mr. Carson's complaints and allegations against you:

1. Based on supporting documentation and a statement from Superintendent Leighangela Brady, Ed.D., there is sufficient evidence to show the Rady Children's Hospital March 13, 2019 Agenda Item was discussed in a Cabinet agenda planning meeting on February 20, 2019 and was documented "will create Board item for next Board meeting."
2. Based on statements from Dr. Brady, [Redacted Witness Name], [Redacted Witness Name], and [Redacted Witness Name], there is sufficient evidence to show the school gardens are encouraged among the NSD employees and community, and they were mostly donated. Additionally, there is sufficient evidence to show the gardens are not simply used to grow vegetables and/or fruit.
3. Based on statements from District Administrators, there is sufficient evidence to show, as of October 2019, work performed by Healthy Day Partners has been volunteer only and the District is not required to use their services and/or adhere to their suggestions.
4. Based on documentation and statements from District administrators, there is sufficient evidence to show the selection of BCK Programs, LLC went through the proper approval process including Board approval.
5. Based on documentation and statements from District administrators, there is sufficient evidence to show additional monies spent with BCK Programs, LLC were also Board approved.
6. There is not sufficient evidence to show BCK Programs, LLC has a "sweetheart" contract with NSD.
7. Based on documentation, there is sufficient evidence to show the District had ten psychologists on payroll on November 2, 2018, ten psychologists on payroll on May 2, 2019 and ten psychologists on payroll on March 5, 2020. Based on statements from the respondents, there is not sufficient evidence to show the Human Resources Department

- has posted a psychologist position to increase the number of psychologists in the District above ten. There is not sufficient evidence to show the District hired ten counselors.
8. Based on statements from complainant and respondents, there is sufficient evidence to show factors influencing the increase in Special Education (SPED) costs (Maintenance of Effort – MOE) include increased legal costs, benefits for SPED staff, and an additional fifteen minutes on each three-hour instructional aide position (now three hour and fifteen minute positions).
  9. Based on documentation and statements by the respondents, there is sufficient evidence to show the District hired two additional counselors between November 2018 and May 2019. The District had eight counselors on payroll on November 2, 2018, ten counselors on May 2, 2019, and ten counselors on March 5, 2020.
  10. There is not sufficient evidence to show the two additional counselor positions affected the SPED budget and/or MOE.
  11. Based on documentation and witness statements, there is sufficient evidence to show [Redacted Witness Name] used Goal 6, Action 4 from the LCAP to fund one counselor at each school.
  12. Based on documentation, respondent, and witness statements, there is sufficient evidence to show the Language Arts Specialist (LAS) coding has been changed, but not specifically the amount of money spent.
  13. Based on complainant and respondent statements, there is sufficient evidence to show Mr. Carson “overheard” a conversation between Dr. Hernandez and Dr. Kraft where they were researching how to use enrichment teachers’ unassigned time more efficiently. Dr. Brady reported she asked them to also research how much it would cost to increase the enrichment teachers’ hours so they would teach weekly as opposed to biweekly. Dr. Brady reported as part of this research they sent out notifications to the sites which would allow them to make a change to the teachers’ schedules if they decided to move forward with any of these adjustments. Dr. Brady reported they did not move forward with any of these changes.
  14. There is not sufficient evidence to support Mr. Carson’s complaint that other Cabinet members are “spending wildly”.
  15. While interviews of witnesses show there is evidence Dr. Brady instructed staff members to research the cost of new furniture for school sites, there is not sufficient evidence to

show she (Dr. Brady) earmarked four million five hundred thousand dollars (\$4,500,000) to be spent on the furniture.

16. Based on documentation and respondent statements, there is sufficient evidence to show the San Diego County Office of Education sent multiple requests to speak to the Business Services Department regarding the District LCAP and a lack of follow-up or response from Mr. Carson. Mr. Carson reported he did not respond because he felt the questions were meant for [Redacted Witness Name] even though the requests were directed specifically to Mr. Carson.
17. There is sufficient evidence to show Mr. Carson is being excluded from some budget meetings and discussions; however, it was determined through respondent and witness interviews that it is not (and has not historically been) normal practice for Mr. Carson to be included in all of these meetings.
18. Based on statements from the respondents, there is sufficient evidence to show hiring a technology teacher was discussed during Cabinet and they declined to move forward due to the potential cost, based on statements from the respondents.
19. Based on documentation, complainant, and respondent statements, there is sufficient evidence to show Dr. Brady filled out a workers' compensation form for Mr. Carson and denoted "stress" as the reason. There is also sufficient evidence to show Dr. Brady filed this form in the Payroll Department which is the District's protocol for workers' compensation form filings.
20. Based on witness statements, there is sufficient evidence to show during the August 30, 2019 unaudited budget review meeting several questions were asked and there was tension in this meeting. There is not sufficient evidence to show [Redacted Witness Name] said, "It was the most uncomfortable meeting she has ever attended" as [Redacted Witness Name] did not confirm this statement during her interview.
21. Based on documentation, there is sufficient evidence to show Dr. Brady asked Mr. Carson to not meet alone with Dr. Hernandez or Dr. Kraft until the investigation was complete. Additionally, there is sufficient evidence to show Mr. Carson did not always follow Dr. Brady's directive.
22. There is not sufficient evidence to show Dr. Brady, [Redacted Witness Name], or [Redacted Witness Name] have retaliated against Mr. Carson by requesting he not meet with them alone during the investigation.

23. There is not sufficient evidence to show Dr. Brady discriminated against Mr. Carson as a result of a perceived or stated disability by Mr. Carson when she encouraged Cabinet members to participate in yoga and meditation during a management retreat in July 2019. Mr. Carson stated he did not participate in yoga due to a knee injury. No evidence was presented to show Mr. Carson suffered negative repercussions and/or discipline by not participating in yoga.
24. Based on documentation, respondent, and witness statements, there is sufficient evidence to show Mr. Carson had knowledge there was a one million two hundred thousand dollar (\$1,200,000) purchase order (PO) which was input into the system in July 2016 as twelve million dollars (\$12,000,000), approved by the Board and then corrected the following month. There is sufficient evidence to show the original twelve million dollars (\$12,000,000) purchase order was not presented to the Board during the re-approval process of all July 2016 POs in 2019. (Note: Based on witness statements, the Board requested all original and corrected PO's for their review during the re-approval process in July and August 2019 and Mr. Carson had knowledge that the material presented to the Board did not include the original twelve million dollar (\$12,000,000) purchase order.)
25. There is not sufficient evidence to show Dr. Brady told Mr. Carson he was doing "the exact same thing as Sweetwater" or that Dr. Brady accused Mr. Carson of committing a crime. There are no percipient witnesses or corroborating evidence.
26. Based on witness and respondent statements, there is sufficient evidence to show Mr. Carson uses fear and intimidation when he manages subordinates and when communicating with classified, certificated, and Cabinet-level employees in the District.
27. Based on respondent statements, there is not sufficient evidence to show Dr. Hernandez made the comment quoted in Mr. Carson's July 25, 2019 email to Dr. Brady which reads "It is obvious from an independent that your staff is refusing to do the work when it is really their work!" Dr. Hernandez denied making this statement and there is no corroborating evidence.
28. Based on respondent and witness statements, there is sufficient evidence to show Mr. Carson was aware of certain calendar items and meetings and chose not to attend.
29. Based on complainant, respondent, and witness statements, there is sufficient evidence to show Mr. Carson is not providing complete information to Cabinet members and the Board.

Dr. Brady  
June 1, 2020  
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30. There is sufficient evidence to show Mr. Carson holds District employees to a different standard than he holds himself.
31. There is sufficient evidence to show Mr. Carson is not transparent or does not completely communicate with other employees, departments, and the Board.

### **CONCLUSIONS OF LAW AND DISPOSITION OF THE COMPLAINT**

Based on careful consideration of Mr. Carson's allegations that you discriminated against him, there is no evidence that you caused Mr. Carson to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of his protected classes were given more favorable treatment. The facts established through the investigation do not support a finding of racial and gender discrimination.

Based on careful consideration of Mr. Carson's allegations that you created a hostile work environment, the facts established through the investigation do not support a conclusion that Mr. Carson was subject to a hostile environment based on race or sex by any employee, including you. Further, there was no evidence of actions taken that were so severe or pervasive as to create a hostile work environment for Mr. Carson.

Based on careful consideration of Mr. Carson's allegations that you engaged in retaliation against him, the facts established through the investigation do not support a conclusion that you subjected Mr. Carson to any adverse employment action. Therefore, there is not sufficient evidence to support a conclusion that you subjected Mr. Carson to retaliation.

Since Mr. Carson is now no longer a District employee, we hope that any discomfort you experienced due to Mr. Carson's conduct is resolved.

### **RESPONDENTS' APPEAL RIGHTS**

As the respondent, you may ask to address the Board regarding your complaint.

At this time the District will be closing its file with regards to this matter. If you have any questions or concerns regarding this response, please feel free to contact our office directly.

Respectfully,

FAGEN FRIEDMAN & FULFROST, LLP  
Attorneys for the National School District



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June 1, 2020

Via E-Mail

Dr. Leticia Hernandez  
Assistant Superintendent of Human Resources  
National School District  
*leticiahernandez@nsd.us*

Re: Final Decisions in Response to Complaint

Dear Dr. Hernandez:

We write on behalf of the National School District's ("District") Governing Board. This letter responds to your complaints regarding the actions of a former District employee, Chris Carson. Furthermore, this correspondence also constitutes notification regarding the disposition of complaints lodged against you by Mr. Carson.

### **SUMMARY OF THE COMPLAINTS**

Your complaint alleged Mr. Carson subjected you to discrimination. Specifically, you alleged that Mr. Carson made false accusations of you which affected your work environment and caused you to feel stressed and targeted. You further alleged that Mr. Carson directed staff not to meet with you. You alleged that Mr. Carson did not want you to earn the position of Assistant Superintendent, and alleged he preferred a male principal for the role. You alleged Mr. Carson referred to you as a "token Latina" and believes Mr. Carson's treatment of you was because you are "a woman and Mexican."

Mr. Carson alleged that you discriminated against him, created a hostile work environment, and engaged in retaliation against him.

### **INVESTIGATION**

Independent investigators David Sobel and Amy Irving of The Sobel Group conducted a large scale investigation into several related complaints and counter-complaints. During this investigation, The Sobel Group interviewed 27 witnesses over the course of 46 separate interviews. The independent investigators also reviewed District Board Policies, Rules and

Regulations, and several other related documents or evidence submitted by witnesses and complainants.

### **FINDINGS OF FACT**

Based on the interviews conducted, in conjunction with an examination of relevant documents, emails, various financial data reports, and additional supporting documentation as part of this inquiry, The Sobel Group made the following factual findings related to your complaints and allegations:

1. While there is no corroborating evidence or percipient witnesses to show Mr. Carson told Dr. Hernandez she is a “token Latina,” it is possible this could have been said because Mr. Carson did not specifically deny making this comment.
2. There is sufficient evidence to show Mr. Carson has directed his staff to come to him first on human resource related matters, rather than go to Human Resources.
3. There is sufficient evidence to show Mr. Carson lead an investigation regarding petty cash at [Redacted] School and did not alert Dr. Hernandez.
4. Based on witness statements and documentation, there is sufficient evidence to show Mr. Carson has used fear and intimidation when dealing Dr. Hernandez.
5. There is not sufficient evidence to show persistent, pervasive or discriminatory behavior based on a protected class such as gender or race by Mr. Carson against Dr. Hernandez.
6. Based on respondent statements, there is sufficient evidence to show several Cabinet members have had tire-related problems on their vehicles while parked at the District office. There is no evidence to show these tire problems were related to the current investigation or were caused by a District employee. Surveillance footage requested from the time period when Dr. Hernandez’s tires were slashed is missing (or was deleted). The District’s surveillance system is managed by an outside security company and falls under the purview of the Business Services Department. There is not sufficient evidence to show why the above referenced security footage was missing.

Additionally, The Sobel Group made the following factual findings related the complaints lodged against you by Mr. Carson:

1. Based on complainant and respondent statements, there is sufficient evidence to show Mr. Carson “overheard” a conversation between Dr. Hernandez and [Redacted Witness Name] where they were researching how to use enrichment teachers’ unassigned time more efficiently. [Redacted Witness Name] reported she asked them to also research how much it would cost to increase the enrichment teachers’ hours so they would teach weekly as opposed to biweekly. [Redacted Witness Name] reported as part of this research they sent out notifications to the sites which would allow them to make a change to the teachers’ schedules if they decided to move forward with any of these adjustments. [Redacted Witness Name] reported they did not move forward with any of these changes.
2. There is not sufficient evidence to support Mr. Carson’s complaint that other Cabinet members are “spending wildly”.
3. Based on documentation, there is sufficient evidence to show [Redacted Witness Name] asked Mr. Carson to not meet alone with Dr. Hernandez or [Redacted Witness Name] until the investigation was complete. Additionally, there is sufficient evidence to show Mr. Carson did not always follow [Redacted Witness Name]’s directive.
4. There is not sufficient evidence to show [Redacted Witness Name], [Redacted Witness Name], or Dr. Hernandez have retaliated against Mr. Carson by requesting he not meet with them alone during the investigation.
5. Based on respondent statements, there is not sufficient evidence to show Dr. Hernandez made the comment quoted in Mr. Carson’s July 25, 2019 email to [Redacted Witness Name] which reads “It is obvious from an independent that your staff is refusing to do the work when it is really their work!” Dr. Hernandez denied making this statement and there is no corroborating evidence.
6. Based on respondent and witness statements, there is sufficient evidence to show Mr. Carson was aware of certain calendar items and meetings and chose not to attend.
7. Based on complainant, respondent, and witness statements, there is sufficient evidence to show Mr. Carson is not providing complete information to Cabinet members and the Board.
8. There is sufficient evidence to show Mr. Carson is not transparent or does not completely communicate with other employees, departments, and the Board.
9. While there is not sufficient evidence to show persistent, pervasive or discriminatory behavior based on a protected class such as gender or race by Mr. Carson against any

NSD employee, there is evidence to show some District employees made statements about how Mr. Carson treats women.

10. While there is sufficient evidence to show Dr. Hernandez and/or other Human Resources Department staff members have omitted account numbers or codes from new hire paperwork, there is not sufficient evidence to show they intentionally skipped steps by not obtaining the account numbers or codes from the Business Services Department.

### **CONCLUSIONS OF LAW AND DISPOSITION OF THE COMPLAINT**

Regarding your allegations of discrimination against Mr. Carson, while Mr. Carson used fear and intimidation tactics towards you, directed his staff to come to him first on human resource related matters, and conducted employee investigation without notifying your department, creating an unpleasant working experience, there is not sufficient evidence to support that Mr. Carson caused you to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of your protected classes were given more favorable treatment. The facts established through the investigation do not support a finding that Mr. Carson's conduct and actions towards you were due to racial and gender discrimination.

Based on careful consideration of Mr. Carson's allegations that you discriminated against him, there is no evidence that you caused Mr. Carson to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of his protected classes were given more favorable treatment. The facts established through the investigation do not support a finding of racial and gender discrimination.

Based on careful consideration of Mr. Carson's allegations that you created a hostile work environment, the facts established through the investigation do not support a conclusion that Mr. Carson was subject to a hostile environment based on race or sex by any employee, including you. Further, there was no evidence of actions taken that were so severe or pervasive as to create a hostile work environment for Mr. Carson.

Based on careful consideration of Mr. Carson's allegations that you engaged in retaliation against him, the facts established through the investigation do not support a conclusion that you subjected Mr. Carson to any adverse employment action. Therefore, there is not sufficient evidence to support a conclusion that you subjected Mr. Carson to retaliation.

Since Mr. Carson is now no longer a District employee, we hope that any discomfort you experienced due to Mr. Carson's conduct is resolved.

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**COMPLAINANTS' APPEAL RIGHTS**

As the complainant, you may ask to address the Board regarding your complaint.

At this time the District will be closing its file with regards to this matter. If you have any questions or concerns regarding this response, please feel free to contact our office directly.

Respectfully,

FAGEN FRIEDMAN & FULFROST, LLP  
Attorneys for the National School District

151-115/4706019.1



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June 1, 2020

Via E-Mail

Dr. Sharmila Kraft  
Assistant Superintendent of Educational Services  
National School District  
*skraft@nsd.us*

Re: Final Decisions in Response to Complaint

Dear Dr. Kraft:

We write on behalf of the National School District's ("District") Governing Board. This letter responds to your complaints regarding the actions of a former District employee, Chris Carson. The complaint was processed pursuant to District Board Policy ("BP") and Administrative Regulation ("AR") No. 1312.1 (Complaints Concerning District Employees), which governs complaints against District employees. Furthermore, this correspondence also constitutes notification regarding the disposition of complaints lodged against you by Mr. Carson.

### **SUMMARY OF THE COMPLAINTS**

Your complaint alleged Mr. Carson subjected you to a hostile work environment and discrimination. Specifically, you alleged Mr. Carson made a series of uncomfortable verbal comments to you. You further alleged Mr. Carson made comments regarding your skin color and markings on your skin. You complained that Mr. Carson violated your personal space to establish control and dominance over you. You believe you have been the target of Mr. Carson's temper and intimidation. You stated you believe this conduct occurred because you are "an educated competent woman."

Mr. Carson alleged that you discriminated against him, created a hostile work environment, and engaged in retaliation against him. Mr. Carson also alleged concerns related to spending from the Educational Services Department and costs associated with staffing of psychologists, counselors, and language arts specialists in light of certain staffing, budgeting, and special education needs and requirements. Mr. Carson believed it was retaliation for you to refer certain budget questions from SDCOE to Mr. Carson. Mr. Carson also believed it was retaliation when you requested SDCOE train you on how to run budget reports.

## **INVESTIGATION**

Independent investigators David Sobel and Amy Irving of The Sobel Group conducted a large scale investigation into several related complaints and counter-complaints. During this investigation, The Sobel Group interviewed 27 witnesses over the course of 46 separate interviews. The independent investigators also reviewed District Board Policies, Rules and Regulations, and several other related documents or evidence submitted by witnesses and complainants.

## **FINDINGS OF FACT**

Based on the interviews conducted, in conjunction with an examination of relevant documents, emails, various financial data reports, and additional supporting documentation as part of this inquiry, The Sobel Group made the following factual findings related to your complaints and allegations:

1. Based on statements from Dr. Kraft and [Redacted Witness Name], there is sufficient evidence to show Mr. Carson pointed out Dr. Kraft's birthmark and insisted it was a bruise. Mr. Carson did not deny making this comment.
2. There is sufficient evidence to show Mr. Carson gives the perception that he or his department has restricted Dr. Kraft's ability to perform her job duties, in particular when related to financial data availability.
3. There is sufficient evidence to show Dr. Kraft did not receive read only access to PeopleSoft until the investigation was in progress.
4. There is not sufficient evidence to show Dr. Kraft is overstaffing school psychologists. No corroborating evidence was presented.
5. There is not sufficient evidence to show Dr. Kraft is spending too much money on LCAP related expenditures. No corroborating evidence was presented.
6. There is sufficient evidence to show Mr. Carson uses fear and intimidation when communicating with Dr. Kraft.
7. There is sufficient evidence to show Mr. Carson gave a directive to some directors not to meet with Dr. Kraft at all or alone.
8. There is not sufficient evidence to show persistent, pervasive, or discriminatory behavior based on a protected class such as gender or race by Mr. Carson against Dr. Kraft.

Additionally, The Sobel Group made the following factual findings related the complaints lodged against you by Mr. Carson:

1. Based on statements from [Redacted Witness Name], [Redacted Witness Name], [Redacted Witness Name], and Assistant Superintendent of Educational Services Sharmila Kraft, Ed.D., there is sufficient evidence to show the school gardens are encouraged among the NSD employees and community, and they were mostly donated. Additionally, there is sufficient evidence to show the gardens are not simply used to grow vegetables and/or fruit.
2. Based on documentation, there is sufficient evidence to show the District had ten psychologists on payroll on November 2, 2018, ten psychologists on payroll on May 2, 2019 and ten psychologists on payroll on March 5, 2020. Based on statements from the respondents, there is not sufficient evidence to show the Human Resources Department has posted a psychologist position to increase the number of psychologists in the District above ten. There is not sufficient evidence to show the District hired ten counselors.
3. Based on statements from complainant and respondents, there is sufficient evidence to show factors influencing the increase in Special Education (SPED) costs (Maintenance of Effort – MOE) include increased legal costs, benefits for SPED staff, and an additional fifteen minutes on each three-hour instructional aide position (now three hour and fifteen minute positions).
4. Based on documentation and statements by the respondents, there is sufficient evidence to show the District hired two additional counselors between November 2018 and May 2019. The District had eight counselors on payroll on November 2, 2018, ten counselors on May 2, 2019, and ten counselors on March 5, 2020.
5. There is not sufficient evidence to show the two additional counselor positions affected the SPED budget and/or MOE.
6. Based on documentation and witness statements, there is sufficient evidence to show Dr. Kraft used Goal 6, Action 4 from the LCAP to fund one counselor at each school.
7. Based on documentation, respondent, and witness statements, there is sufficient evidence to show the Language Arts Specialist (LAS) coding has been changed, but not specifically the amount of money spent.

8. Based on statements from witnesses and respondents, there is sufficient evidence to show the assistant superintendent of Educational Services and the director of Finance have historically worked together on the principal budget memos and then sent them out to the principals. Further, there is sufficient evidence to show the assistant superintendent of Business Services has historically not been involved with this procedure, however in 2019 for an unknown reason [Redacted Witness Name] asked Dr. Kraft to show these (budget memos) to Mr. Carson which was not prior practice.
9. Based on documentation and witness statements, there is sufficient evidence to show Teachers on Special Assignment (TOSAs) [Redacted] and [Redacted] were previously coded to LCAP and LCAP carryover, but were moved to Title III in May 2019, prior to Mr. Carson's complaint and with his knowledge.
10. There is sufficient evidence to show multiple District administrators reported there was a certified teacher ([Redacted]) funded by Title I funds even though she is on loan to the University of California San Diego. The administrators reported this teacher is not doing work at the District and therefore cannot be funded under Title I funds. This employee was being funded under Title I funds in November 2018 and was moved out of Title I to LCAP carryover on May 24, 2019.
11. Based on complainant and respondent statements, there is sufficient evidence to show Mr. Carson "overheard" a conversation between Dr. Hernandez and Dr. Kraft where they were researching how to use enrichment teachers' unassigned time more efficiently. Dr. Brady reported she asked them to also research how much it would cost to increase the enrichment teachers' hours so they would teach weekly as opposed to biweekly. Dr. Brady reported as part of this research they sent out notifications to the sites which would allow them to make a change to the teachers' schedules if they decided to move forward with any of these adjustments. [Redacted Witness Name] reported they did not move forward with any of these changes.
12. There is not sufficient evidence to support Mr. Carson's complaint that other Cabinet members are "spending wildly."
13. Based on documentation and respondent statements, there is sufficient evidence to show the San Diego County Office of Education sent multiple requests to speak to the Business Services Department regarding the District LCAP and a lack of follow-up or response from Mr. Carson. Mr. Carson reported he did not respond because he felt the questions were meant for Dr. Kraft even though the requests were directed specifically to Mr. Carson.

14. There is sufficient evidence to show Mr. Carson is being excluded from some budget meetings and discussions; however, it was determined through respondent and witness interviews that it is not (and has not historically been) normal practice for Mr. Carson to be included in all of these meetings.
15. Based on statements from the respondents, there is sufficient evidence to show hiring a technology teacher was discussed during Cabinet and they declined to move forward due to the potential cost, based on statements from the respondents.
16. Based on documentation, there is sufficient evidence to show Dr. Brady asked Mr. Carson to not meet alone with Dr. Hernandez or Dr. Kraft until the investigation was complete. Additionally, there is sufficient evidence to show Mr. Carson did not always follow Dr. Brady's directive.
17. There is not sufficient evidence to show [Redacted Witness Name] , Dr. Kraft, or [Redacted Witness Name] have retaliated against Mr. Carson by requesting he not meet with them alone during the investigation.
18. While there is not sufficient evidence to show persistent, pervasive or discriminatory behavior based on a protected class such as gender or race by Mr. Carson against any NSD employee, there is evidence to show some District employees made statements about how Mr. Carson treats women.
19. There is not sufficient evidence to show a pattern of retaliation where Dr. Kraft is "going after people."
20. Based on documentation, there is sufficient evidence to show Dr. Kraft knew adding a psychologist might increase MOE.

### **CONCLUSIONS OF LAW AND DISPOSITION OF THE COMPLAINT**

Regarding your allegations of discrimination against Mr. Carson, while Mr. Carson used fear and intimidation tactics towards you, directed some employees not to meet with you, and made comments regarding your birthmark creating an unpleasant working experience, and while despite his allegations there was not sufficient evidence to conclude that you were overstaffing school psychologists or were spending too much money on LCAP, there is not sufficient evidence to support that Mr. Carson caused you to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of your protected classes were given more favorable treatment. The facts established through the investigation do not support a finding that Mr. Carson's conduct and actions towards you were due to racial and

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gender discrimination. Regarding your allegations that Mr. Carson created a hostile work environment, the evidence does not support a conclusion that Mr. Carson's conduct and actions you, while objectionable, were motivated by your race, sex, age, sexual orientation, or any other protected category.

Based on careful consideration of Mr. Carson's allegations that you discriminated against him, there is no evidence that you caused Mr. Carson to suffer any adverse employment action or disparate treatment based on race or gender, or that any person outside of his protected classes were given more favorable treatment. The facts established through the investigation do not support a finding of racial and gender discrimination.

Based on careful consideration of Mr. Carson's allegations that you created a hostile work environment, the facts established through the investigation do not support a conclusion that Mr. Carson was subject to a hostile environment based on race or sex by any employee, including you. Further, there was no evidence of actions taken that were so severe or pervasive as to create a hostile work environment for Mr. Carson.

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Since Mr. Carson is now no longer a District employee, we hope that any discomfort you experienced due to Mr. Carson's conduct is resolved.

#### **COMPLAINANTS' APPEAL RIGHTS**

As the complainant, you may ask to address the Board regarding your complaint.

At this time the District will be closing its file with regards to this matter. If you have any questions or concerns regarding this response, please feel free to contact our office directly.

Respectfully,

FAGEN FRIEDMAN & FULFROST, LLP  
Attorneys for the National School District