

4/12/16 Draft INVESTIGATIVE REPORT

Harassment, Intimidation, and Bullying (HIB), Unprofessional conduct, and Retaliation complaint against Eric McCurdy.

Submitted by Jason Dahlberg, HR Investigator
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INTRODUCTION

The Seattle Public Schools ("SPS") Human Resources Department ("HR") investigated allegations made against Executive Director of Athletics Eric McCurdy. Athletic Program Liaison Krystyana Brame and Assistant Director of Athletics Harvard Jones made allegations that they were subjected to harassment, intimidation, and bullying from McCurdy. Jones also alleged that McCurdy had retaliated against him. Additional allegations were made during the investigation that McCurdy's treatment of Brame constituted a hostile work environment, and that he acted unprofessionally. The allegations were submitted to HR on 11/17/15.

McCurdy has been the Executive Director of Athletics since 2010, and Brame and Jones both worked in the Athletic Department. Athletic Program Liaisons Greg Brashear and Katie Softli also work in the department. Brame was supervised by Jones and has worked with McCurdy for the last five years. At the time Jones made the allegations, he reported directly to McCurdy and had worked with him for the prior two years. Jones subsequently accepted a position with another school district, his last day with SPS was on or around 12/4/15.

A thorough investigation has been conducted into this matter and the following is the investigative report. Findings were reached after considering all the information obtained during the course of the investigation. The report may not include an exhaustive account of all investigative efforts, or all the evidence obtained, but may include only what is necessary to support the findings.

SUMMARY OF ALLEGATIONS¹

HIB Allegations

Brame alleged that she had been continuously intimidated and bullied by McCurdy based on McCurdy's behavior towards her. Brame alleged that McCurdy made several inappropriate comments to her and also regularly told her that her position was in jeopardy. Brame claimed that she has endured this treatment from McCurdy since he was hired in 2010.

Jones alleged he had been intimidated and bullied claiming McCurdy made the work environment stressful and would often yell and berate him and Athletic Department staff.

Specifically, McCurdy was alleged to have harassed, intimidated and bullied by:

1. Denying Brame's vacation request and telling her he did not believe she had available vacation time, when in fact she did have vacation time.
2. Regularly telling Brame and Jones that he was protecting their jobs claiming others were dissatisfied with their work performance, making Brame and Jones fearful that their jobs were in jeopardy.
3. Making comments to Brame and Jones about giving them more positive performance reviews than they deserved.
4. Telling his staff that he did not want to come to the office and see them because he could not both "do their jobs and his own."
5. Making the following vulgar comment to Brame and Jones, "I'm left here with my dick in my hand and being f***** without Vaseline."
6. Telling Brame that he did not trust her after she had applied for a different position at SPS, and hadn't first told him.
7. Telling Jones that he needed him to supervise a "Fat white girl," allegedly referring to Brame, and adding that Jones needed to "get her out."

¹ While the following listing attempts to identify where a particular claim may fall, some claims may, if proven true, violate more than one policy. This list is an attempt to reflect how the claims were presented to HR through the complaint and investigation process.

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8. Telling Jones that "you need to be working with me and not laying up under your girl."
9. Telling Brame and Jones that they "Got to go" referring to them not allegedly doing their jobs.
10. Yelling and cursing during monthly Athletic Director meetings.
Leopold alleged he had been harassed, intimidated, and bullied by McCurdy during AD monthly meetings

Unprofessional Conduct Allegations

McCurdy was alleged to have engaged in unprofessional conduct by speaking poorly of his superiors, cursing during meetings, and using vulgar language when talking to staff and when talking to an athletic trainer.

Specifically, McCurdy was alleged to have:

11. Spoken negatively about his superiors, allegedly telling Jones that he works around his boss saying, "When Pegi [Assistant Superintendent of Operations Pegi McEvoy] was our boss, I worked around her. She is dumb and doesn't know shit" and "Flip [Associate Superintendent Flip Herndon] is not really a down brother like you."
12. When talking to his staff about how he treated someone, made the comment that he "got in their ass."
13. Told a Seattle Children's Hospital athletic trainer, when referencing the size of a donation he had received from the hospital, that the donation was a, "one inch dick donation and we need a two to three inch dick donation to get a Woodie."
14. Directed his staff not to submit their time off in Employment Self Service ("ESS")² telling them that he could not give them more pay, but he could give them more time off.
15. Provided his login and password to ESS to Brame so that she could approve time off under his login.

Retaliation Allegations

McCurdy was alleged to have engaged in retaliation against Jones.

Specifically, McCurdy was alleged to have:

16. Jones' complaint alleged that McCurdy retaliated against him by giving him a poor reference when he applied for a job at another school district, because he was angry at Jones for not telling him about it.

Hostile Work Environment Allegation

McCurdy was alleged to have subjected Brame to a hostile work environment through his actions.

Specifically, McCurdy was alleged to have:

17. Subjected Brame to a hostile work environment based on McCurdy's behavior toward her.

APPLICABLE POLICIES

The following policies were reviewed and analyzed in this report and are attached hereto:

- SPS District Policy No. 3207 – Prohibition of Harassment, Intimidation and Bullying
- Superintendent Procedure 3207SP.B – Adults
- SPS District Policy No. 3208 – Sexual Harassment
- Superintendent Procedure 3208SP
- SPS District Policy No. 5006 – Unprofessional Conduct of Staff
- SPS District Policy No. D51.00 - Anti-Retaliation Policy
- Agreement and Authorization For Compensatory Time "Comp Time" authorization form
- Superintendent Procedure 2022SP – Electronic Resources / Use of the Internet
- SPS Network Use/Access Agreement.
- SPS District Policy 5281 – Staff Disciplinary Action and Discharge

² Employment Self Service ("ESS"), is a computer system at SPS where employees record their time off that is ultimately approved by supervisors.

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PERSONS INTERVIEWED

Interviews were conducted in person or by telephone and were not electronically recorded.

- i. **Krystyana Brame, Athletic Program Liaison.** Interviewed on 12/1/15 at 4:45 pm at KFC restaurant and 12/7/15 at 5 pm by telephone.
- ii. **Harvard Jones, Assistant Director of Athletics.** Interviewed on 12/2/15 at 11:30 pm at District Office.
- iii. **Andrew Little, Athletic Trainer, Children's Hospital.** Interviewed on 12/3/15 at 11:30 am by telephone.
- iv. **Greg Brashear, Athletic Program Liaison.** Interviewed on 12/4/15 at 1 pm by telephone.
- v. **Katie Softli, Athletic Program Liaison.** Interviewed on 12/4/15 at 4 pm at HR.
- vi. **Carrie Burr, Ballard High School ("HS") Athletic Director ("AD").** Interviewed on 12/8/15 at 10:30 am by telephone.
- vii. **Traci Huffer, Ingraham HS AD.** Interviewed on 12/8/15 at 11:45 am by telephone.
- viii. **Trevor Leopold, West Seattle HS AD.** Interviewed on 12/8/15 at 1:50 pm by telephone.
- ix. **Dr. Judith Berry, Interim Assistant Superintendent of Finance and Operations, Tukwila School District.** Interviewed on 1/8/16 at 2:30 pm by telephone.
- x. **Amy Morley, HR Specialist, Tukwila School District.** Interviewed on 1/8/16 at 2:30 pm by telephone.
- xi. **Eric McCurdy, Executive Director of Athletics.** Interviewed on 1/12/16 at 10 am at HR and 2/4/16 at noon at HR.
- xii. **Tara Davis, Assistant Director of Athletics.** Interviewed on 1/20/16 at 6:30 pm by telephone.
- xiii. **Julie Davidson, Payroll Manager.** Interviewed on 1/21/16 at 3 pm at HR.
- xiv. **Matt Fraser, SAP System Administrator Department of Technology Services ("DOTS").** Interviewed on 2/4/16 at 11:30 am by telephone.

DOCUMENTS REVIEWED

The following documents were reviewed for the investigation and were attached as exhibits to this report.

1. Brame's written complaint, undated, received 11/17/15.
2. Senior Payroll Specialist Gosia Gniedziejko's email dated 2/24/16.
3. Notes from HR Manager Denise Williams Saunders 11/17/15 meeting with Harvard Jones.
4. Fraser's email dated 2/4/16.
5. Folder from McCurdy, that included various emails that McCurdy believed demonstrated that Brame was not performing her job duties, not dated.
6. Folder from McCurdy, that included various emails that McCurdy believed demonstrated that Jones was not performing his job duties, not dated.
7. Folder from McCurdy, that included various emails and news articles that McCurdy believed demonstrated his character and credibility, not dated.
8. SPS Network Use Agreement accepted by McCurdy on 8/19/15.

INVESTIGATION

HIB Allegations

Brame submitted a written statement outlining her complaint (**Exhibit 1**). At the time of interview, Brame confirmed her statement was true and accurate. She alleges in her complaint that McCurdy regularly intimidated and bullied her. Jones stated in his meeting with Labor Manager Williams-Saunders that he was harassed and bullied by McCurdy and provided several comments that McCurdy had made to him which Jones believed were harassing and bullying (**Exhibit 2**).

Treatment of Brame

Jones stated that McCurdy would often tell him that "Everyone downtown does not like you" and that "They want you out" and that he, McCurdy, had "saved his job." Jones stated that McCurdy did not specifically say who "Everyone" or "They" were, but assumed McCurdy was talking about his superiors—Assistant Superintendent of

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Operations, Pegi McEvoy and Associate Superintendent of Capital Facilities Enrollment, Flip Herndon. Jones stated that he would ask McCurdy specific questions about these claims and what specific issues people had with him. McCurdy would not answer, according to Jones, but would change the subject when pressed. McCurdy denied making these statements, but noted that Herndon had concerns with Jones and he spoke with Herndon about that.

Denial of Time Off for Brame

Brame stated that for the last five years (2010- 2015) she had accrued vacation time that she had to “use or lose”³. SPS caps accrual of vacation at 240 hours, hence, if you don’t use it, you lose it. Brame says she informed McCurdy that she was facing loss of vacation because she was at the cap and requested vacation time. She claimed that she requested vacation time in the summer of 2011 and McCurdy denied her vacation request and told her he did not believe that she had accounted for her time properly. Brame said that she would bring up her “use or lose” time each year and McCurdy would tell her on each occasion that he did not believe she had the “use or lose” time. Brame stated that she was not aware that McCurdy had denied vacations requests of any other staff. Jones stated that sometime last year he witnessed McCurdy deny a vacation request from Brame. Jones stated that he heard McCurdy tell Brame that he did not care if she had “use or lose” vacation time and he did not believe she had any vacation time left. McCurdy stated he did not deny Brame her request for time off, nor did he tell Brame that he did not believe that she had vacation time. He stated that he allowed Brame to leave work early and to take her requested time off. Senior Payroll Specialist Gosia Gniedziejko verified that Brame had lost vacation time due to being at the 240 hour cap each year from 2010 through 2015 (Exhibit 3).

Questioning Brame’s and Jones’ Job Security

Brame reported that on multiple occasions McCurdy told her that her job was in jeopardy and that “They” were out to get her. She stated that McCurdy often said “They” but he did not identify who “They” were. She assumed he meant upper management at the District office Brame said that he also told her that he was being pressured to change her job description to that of a business partner and that she would have to re-apply for the new position. McCurdy, according to Brame, said that her position was in question at SPS and that nobody in HR liked her, trusted her or had respect for her. She reported that McCurdy told her that he was being pressured to change her position to a new position and to have her apply and interview for the new position. She said McCurdy told her that, “They are all out to get you Kryns, but I saved your job again.” McCurdy repeatedly told her nobody would take her for other district jobs because they all know she screwed up, according to Brame. She also claimed that when McCurdy was first hired he told her that “They” wanted her out of her position, but he had saved her job. She stated that he told her she would be “interviewed out” of her job. McCurdy denied telling Brame that he had “saved” her job, but did say he told Brame that people in HR were not happy with her. He asserted he did not tell Brame this in a negative way but was just reporting what people said about her.

Comments about Performance Reviews

Brame alleged that when McCurdy evaluated her he often told her that he gave her a better evaluation than she deserved, and that she believed this was another example of McCurdy’s harassment. McCurdy did not recall ever telling Brame this, but did say he would tell her that she needed to “step it up and improve her work.” Jones stated that, due to performance issues, he had placed Brame on a performance improvement plan, part of which included addressing untimely ASB money transfers and paying of coaches. Brame improved, according to Jones, and thus he removed her from the performance improvement plan. Jones characterized McCurdy as frustrated by Brame’s improvement and subsequent removal from the plan, reiterating to Jones that he wanted Brame out. Jones stated that Brame told him that she was in constant fear of being fired by McCurdy.

Jones said McCurdy had given him very favorable performance reviews, but afterward would tell him that the performance review Jones received was too positive and should have been lower. McCurdy denied this. McCurdy stated he had concerns with Jones’ work performance but he gave Jones favorable performance reviews and that he was going to address his concerns with Jones this school year (2015-2016).

³ “Use or lose” vacation time is vacation time that is lost, if not used, after accruing over 240 vacation hours

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Jones stated that he witnessed McCurdy bullying Brame all the time. If McCurdy received complaints about Brame's job performance, according to Jones, he would yell at and berate her. Jones stated that on a few occasions he told McCurdy that he had gone too far with how he spoke to Brame, but McCurdy said that was just his management style. McCurdy denied that Jones ever told him that he was being too hard on Brame. McCurdy denied that he harassed, intimidated, or bullied Brame. He stated that he told her she was not doing her job and needed to improve.

Negative Comments at Staff Meeting Toward Staff and Brame

Brame wrote that during a staff meeting McCurdy said that he drives by the office and does not want to come in because he does not want to see any of them; that he did not have time to do their jobs and his. Jones confirmed that on a few occasions McCurdy said such things at staff meetings as described by Brame. Softli also reported that on two occasions last year McCurdy told the staff that he did not want to come into the office because he does not want to see any of them. She said that McCurdy said that he did not have time to do their jobs and his. McCurdy said he did not recall saying this.

Jones stated that McCurdy would also berate Brame at the department's weekly meetings by telling her, in a disrespectful manner, that she did not know how to do her job. Softli said that McCurdy would often yell at Brame and Jones during their bi-monthly staff meetings. She reported that McCurdy would tell them they were not doing their jobs. He would go on in an aggressive manner, according to Softli, telling them that if they did not do their jobs they "got to go." Softli believed this behavior to be bullying. Softli also stated that McCurdy would often yell and curse toward the staff during meetings and tell the staff members they were not doing their jobs. Softli recalled that on one occasion she specifically asked McCurdy what it was staff was not doing and McCurdy then quickly changed the subject. McCurdy later came to her later and said he was not talking about her not doing her job when he was addressing the staff, according to Softli. McCurdy denied yelling or berating Brame at any time or telling either complainant that they "got to go" if they did not do their jobs.

Vulgar Comment and Yelling at Brame and Jones

According to Brame, during a staff meeting McCurdy said (when, referring to ASB transfers of money that Brame had not completed correctly and timely), "I'm left here with my d*** in my hand and being f***** without Vaseline." Brame stated that McCurdy yelled at and berated Jones and her about this. Jones confirmed that McCurdy made the comment and berated both Brame and him. Softli also confirmed hearing the vulgar comment from McCurdy. She stated that sometime last year she overheard McCurdy yelling and cursing at Brame and Jones while they were in McCurdy's office with the door open. She stated that McCurdy yelled that he could not do his job and their jobs as well and he used very vulgar and bad language. Softli was asked specifically what McCurdy said to Brame and Jones and she said that McCurdy said, "I am here holding my d*** in my hand getting f*****in my a** with no Vaseline." Softli stated she did not know what they were talking about but, she was shocked by what McCurdy said. McCurdy denied that he made the comment to Brame, but admitted to making this comment to Jones regarding ASB transfers during a private and personal conversation at a barbershop. Softli stated she had witnessed McCurdy harass, intimidate and bully Brame and Jones. She stated McCurdy was tough on Brame and Jones and he would often yell at them and berate them. Softli added that McCurdy would not talk to Brashear the same way that he spoke to Brame and Jones. McCurdy denied that he yelled at Brame and Jones, but noted that that he would tell them that they needed to do a better job and get their work done.

Softli stated that Brame had come to her a few times in the last year to tell her she was not happy with the way McCurdy treated her. Brame told her that McCurdy had threatened her job and she believed that McCurdy wanted her out. Brame had told her that, due to the way McCurdy was treating her, she was looking for other jobs at SPS.

Brame's Claim that McCurdy was Upset at Her Job Hunt

Brame reported that she applied for a job at SPS in HR last year and she believed that McCurdy had somehow learned that she had applied. She stated that her supervisor Harvard Jones was on the interview committee and he advised her to tell McCurdy she had applied for the position. Brame stated that she told McCurdy that she had applied for a position in HR and he responded by telling her that he already knew and because she had not told him he could no longer trust her. McCurdy denied that he told Brame that he could not trust her due to her applying for the position. He said that he knew Brame had applied for a position in HR due to Jones being on the interview committee and had encouraged her to look for other positions.

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Unprofessional Conduct Claims

Alleged Statements about Superiors

Jones stated that McCurdy would often speak negatively about his superiors. He alleges McCurdy said, "When Pegi [McEvoy] was our boss, I worked around her. She is dumb and doesn't know shit" and "Flip [Herndon] is not really a down brother like you." When asked for context about the comment McCurdy made about Herndon, Jones stated that McCurdy told him that Herndon was bi-racial like Jones, but Herndon was not a "down brother" like he was. Jones took the comment to mean that Flip was not "in with the black guys" at the district. McCurdy denied speaking negatively about his superiors, denied he said he "worked around" McEvoy or e said, "She is dumb and doesn't know shit." McCurdy also denied ever saying Herndon was not a "down brother." McCurdy reported that Jones made the comment that McEvoy "did not know shit" and Jones said that Herndon was "not a real brother." McCurdy added that Jones told him he did not like Herndon and that Herndon would be too involved in the Athletic Department.

McCurdy's Alleged Conduct at AD Meetings

Softli was asked if she witnessed McCurdy treat other staff in an unprofessional manner. She stated that she had not, but added that two school Athletic Directors, Ingraham HS AD Tracey Huffer, and Ballard High School AD Carrie Burr had told her that they were tired of coming to monthly AD meetings and having McCurdy yell at them. Jones stated that McCurdy was unprofessional towards school Athletic Directors ("ADs") during their monthly meetings. He stated that McCurdy would often yell at, curse and berate AD's during the meetings. Jones stated that he attempted to talk with McCurdy about McCurdy's cursing and behaving in an over the top manner at the AD meetings, but McCurdy did not listen and told Jones that this was "just his management style."

Burr has worked with McCurdy for the last five years, speaks with him often and attends the monthly AD meetings. Burr stated when they first worked together she felt that McCurdy behaved in an unprofessional manner toward her when he cursed during a meeting. She said that he did not curse directly at her and she did not specifically recall what he said. Burr stated that she spoke with him after this and explained how she felt and they worked it out. She said after that she has had no issues or concerns with McCurdy and how he treated her. She did say she witnessed McCurdy and West Seattle High School AD Trevor Leopold have heated back and forth discussions at AD meetings, but she did not believe that McCurdy had harassed or treated Leopold unprofessionally.

Leopold works with McCurdy a few times a month, and stated he speaks with McCurdy often and he attends monthly AD meetings. Leopold alleged that he had been harassed, intimidated, and bullied by McCurdy and provided two examples, each which took place during two AD monthly meetings. As background, Leopold stated he had a difference of opinion with McCurdy about WSHS classification. Leopold wanted WSHS to stay at an AA classification, but McCurdy wanted WSHS to move to a AAA classification.⁴ Leopold stated that he attempted to discuss this at a monthly AD meetings and McCurdy would not let him talk and "verbally abused him." He alleged that McCurdy yelled at him and spoke over him and would not allow him to state his position. Leopold claimed that in this meeting McCurdy brought up personal things that were not relevant to the issue of WSHS classification, such as the fact that Leopold had sent a letter to the school board about the lack of pay for AD's.

Additionally, Leopold alleged McCurdy would curse during AD meetings and would say things like, "That is chicken shit," which he believed was unprofessional. Leopold reported SPS AD's Darby Haskins from Nathan Hale High School and George Foster from Rainer Beach HS would both confirm that McCurdy yells at him at these meetings. Haskins did not confirm this, reporting that he had not witnessed the behavior as alleged by Leopold. While confirming that the two had an ongoing disagreement at the AD meetings, Haskins characterized McCurdy as direct and firm, but not unprofessional. Foster stated that McCurdy can get animated and curse at meetings, but McCurdy did not direct his cursing at anyone in particular, and Foster did not find the cursing to be offensive. He stated that he had not witnessed McCurdy harass, intimidate, bully, or treat anyone unprofessionally at AD meetings.

⁴ A classification is how high schools are grouped together based on their student body enrollment and used by the WIAA to maintain fair and equal competition between its member high schools.

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Huffer, Ingraham High School AD, regularly attends the AD monthly meeting and she works with McCurdy a few times a month, and speaks with him regularly. She stated she witnessed McCurdy treat, West Seattle High School AD, Trevor Leopold unprofessionally at a recent AD monthly meeting. According to Huffer, during a discussion about school classification and league alignment, a disagreement between Leopold and McCurdy arose. Huffer stated that the issue in contention had been discussed at several prior AD meetings and a decision had been made, but at subsequent AD meetings Leopold continued raising the issue. Huffer said the discussion between the two became heated, did not recall exactly what McCurdy said to Leopold, but could have been handled differently by McCurdy. Huffer did not recall exactly what was said, but stated McCurdy did not curse or yell.

McCurdy denied that he yells or curses at the monthly AD meetings, but acknowledged he had heated back and forth conversations with Leopold during AD meetings. He stated that the meetings can become a little harsh and people can talk over each other and cut each other off. He stated that Leopold wanted to change the classification of his school and he was soliciting there Seattle schools go join him. McCurdy stated that he told Leopold that this was not going to happen but Leopold kept bring up the topic at meetings. McCurdy said that he gave Leopold the opportunity to express his opinion about the situation but Leopold would not drop it. McCurdy denied that he harassed, intimidated or bullied Leopold at these monthly AD meetings or at any other time.

Playing Staff Against One Another

Brame claimed McCurdy would attempt to play members of the staff against each other. Specifically, Brame said he told her that he was disappointed in how she let Jones manage her and that she was a "grown ass woman" and should be "managing him like I manage Pegi [McEvoy]." Brame stated that McCurdy told her that he did not know how Jones was evaluating her and added that he would not let Jones get rid of her, that he had his own issues with Jones. McCurdy denied that he told Brame that he was disappointed in how she let Jones manage her, but acknowledged that he told her he would not let Jones get rid of her.

Making Vulgar Statements to Staff

Jones reported that on a few occasions McCurdy would brag about how he treated somebody by telling his staff that he "got in their ass." Softli stated that on one occasion she overheard McCurdy say, "I got in their ass" after a staff meeting. She did not know the context or of whom McCurdy was speaking. Brame confirmed that McCurdy would often brag how he treated others and would brag and make lewd comments. She stated that he would talk about how he had to "Get into their ass" or that a particular person "Ain't shit." McCurdy denied that he bragged to staff about how he treated others or that he made lewd comments about others. He stated that he told Jones in a private and personal conversation outside of work how he "got in the ass" of a particular AD.

Jones stated that in August of 2015 he was present when McCurdy was speaking with Children's Hospital Athletic Trainer Andrew Little in a conference call about a donation of (\$2000) that Children's Hospital was going to give to SPS. Jones said that McCurdy told Little that a \$2000 donation was like a "one inch dick donation and we need a two to three inch dick donation to get a woodie." Jones stated that he was shocked by the comment and he believed the comment was very unprofessional. Little stated that Children's Hospital did not give monetary donations to SPS but does donate work hours to SPS. He did not recall any conversations with McCurdy about monetary donations or any conversations with McCurdy where he believed McCurdy was inappropriate, unprofessional, or used vulgar language. He offered that McCurdy used colorful language, but never made Little feel uncomfortable. Little denied that McCurdy ever said the phrase or anything like the phrase "one inch dick donation and we need a two to three inch dick donation to get a woodie." McCurdy denied he made the comment as well, stating he never said anything like that to Little. McCurdy stated that he told Little he would have liked a larger donation if he could get it and added that Little was an athletic trainer and did not have the authority to authorize a larger donation.

Offensive Statement Made to Jones

Jones alleged that when he was first hired and was single he would often go out at night with McCurdy. According to Jones, sometime in May of 2014, when he was no longer single, McCurdy told him, that "you need to be working with me and not laying up under your girl." Jones said that McCurdy questioned his commitment to his job and said Jones should be at work all the time. Jones asked McCurdy what specifically needed to be done and told him that he had completed all his work and McCurdy had no response. McCurdy stated that he told Jones that "you need to be working with me and not laying up under your girl" during a private and personal conversation he had with Jones outside of work. McCurdy stated that he had formed a personal relationship with Jones and that they were close friends. McCurdy confirmed that he told Jones that he questioned his commitment to his job and told him that he

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needed to work more. He added that he told Jones that he needed to be present at more events and games in the evenings, that his job was not a 9 to 5 job. McCurdy said he recently had a "heart to heart" talk with Jones about his work performance and outlined expectations. McCurdy said that he had spoken with Herndon and advised him that he was going to have a discussion with Jones about his work performance, and that McCurdy believed this discussion with Jones led to Jones filing the complaint against him.

Violation of Timekeeping Procedures and Practices

Brame alleged McCurdy told the staff numerous times to not record their time off. She said that McCurdy told them that he did not track their time off and to take their vacation time when then needed and to not submit for their time off. Brame said that, despite McCurdy's direction, she submitted her vacation time properly in ESS and she believed the rest of the staff did as well.

Jones stated that McCurdy informed the entire staff to not properly submit their time off in ESS. McCurdy told the staff that he could not give them more pay, but he could give them more time off. McCurdy told the entire staff that he did not want them to account for their time off in ESS. McCurdy asked them to just tell him when they wanted time off. Jones believed that McCurdy did this to have power over the staff. Jones stated that he was concerned that McCurdy would use this against him so he input his time off correctly in ESS. Jones stated that Brame also submitted her time off correctly because she also feared that McCurdy would use this against her. Brashear denied that McCurdy told him or the staff to not submit for their time off, nor did Softli recall McCurdy telling the staff that they did not have to submit for their time off in ESS.

McCurdy stated that he allowed his staff compensatory time "comp time." He explained that some of his staff were required to work late at night at games and events so he would allow them to track their own work time. He stated that this applied to Brame and Jones as well. McCurdy stated that he was very flexible with his staff and their time off and how they recorded their time. McCurdy denied that he told his staff that they did not need to account for their time off or to not submit their time off in ESS. He said he told his staff that they could use compensatory time if they had worked over on other days. McCurdy stated he recorded his staff member's compensatory time off by documenting the days and time they used for comprehensive time and putting the documentation into folder in an unlocked file cabinet in his office. However, McCurdy stated that these folders had recently "gone missing" so was not able to provide documentation that he documented his staff's time off.

Brame stated that McCurdy did not approve staff time off in ESS, and added that she did, using McCurdy's login and password to ESS which he had given her, and with his permission and knowledge, she used his login and approved staffs time off. Jones confirmed that Brame used McCurdy's login and password in ESS to approve the staffs time off. Jones stated that McCurdy did not approve the time off in ESS for the staff and that Brame did this, using McCurdy's log in, with McCurdy's approval. McCurdy stated that his staff requested their time off in ESS, by logging their vacation and sick time in ESS. He admitted that he provided Brame his login and password to log onto the ESS system so that she could approve the time off for the staff on the system. He said he allowed her to do this because she was in charge of payroll. McCurdy stated he was not familiar with the ESS program and that Brame had been using ESS for the staff prior to him being hired in 2010 so he allowed her to keep using ESS for the staff.

He said that he approved all time off for his staff by signing all of the hard copy print outs for all staff time off. McCurdy stated that he kept the "comp time" documentation and hard copy of requests for time off in the same folders for each of his employee and these folders were now missing. When asked for hard copies of requests for time off McCurdy stated that they were kept in the same folders that were missing. McCurdy added that he found it interesting that these folders went missing around the same time that Jones filed his complaint. Payroll Manager Julie Davidson was interviewed by the HR investigator and she stated that compensatory time is allowed, but it must to be recorded and documented by managers SAP System Administrator at "DOTS" Matt Fraser stated that sharing ESS logins was a violation of SPS Network Use Agreement and is also a violation of SPS License Agreement with our software vender SAP AG. The license agreement specifically spells out that all user accounts are for named users and cannot be shared. Fraser sent an email (Exhibit 4) dated 2/4/16 discussing ESS sharing.

Retaliation Allegation

Jones claimed McCurdy retaliated against him by giving him a poor reference when he applied for a job in another school district. Jones said he had applied for a Director of Athletics position with the Tukwila School District and

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informed McCurdy he had applied. Jones reported McCurdy first provided an initial reference for him that he assumed was favorable (Jones did not see the reference) because he was offered an interview. Jones stated that he was leaving McCurdy 's office when McCurdy took a telephone call from Tukwila School District Superintendent Dr. Nancy Coogan, whom McCurdy knew from when she worked at SPS.

Jones stated that after McCurdy took the call in his office he went to Jones and appeared angry with him and said, "So I see you have an interview with Tukwila." McCurdy, according to Jones, admonished him and said he should have told him about the interview and went on to tell him that he was the president of the Washington Interscholastic Activities Association ("WIAA") and that he would not be able to go anywhere without McCurdy knowing about it. Jones took this comment as a threat and believed McCurdy was attempting to demonstrate his power over him.

Jones believed McCurdy later gave him a poor oral reference in when he spoke to Coogan because he was angry with him for not telling him about his scheduled interview. Jones stated that Interim Assistant Superintendent of Finance and Operations at Tukwila Dr. Judith Berry later confirmed with him that McCurdy had given him a poor oral reference, telling Tukwila that he had poor work ethic and no integrity. Jones stated that he still was offered and accepted the job at Tukwila.

Morley, HR Specialist at the Tukwila School District, reported McCurdy first submitted a favorable electronic reference for Jones and McCurdy rated Jones very high in all categories. Morley stated she had a follow up telephone interview on October 22, 2015, where McCurdy gave Jones a very negative reference. She said that McCurdy rated Jones low in several categories and said that he would not recommend Jones for the position. Morley reported that McCurdy said that Jones had integrity issues and struggled with managing staff.

Berry stated Tukwila Superintendent Nancy Coogan told her that McCurdy had called her on 10/23/15 and told her not to hire Jones due to his integrity issues. Berry stated that Jones had earlier provided them with a performance review conducted by McCurdy which was very positive. Based on the positive performance review from McCurdy and McCurdy's initial positive reference she believed that McCurdy's latest negative reference was biased. Berry stated that they conducted more reference checks for Jones and they came back positive so they offered Jones the position. McCurdy advised the HR investigator that he was reluctant to provide answers about the references that he gave for Jones to the Tukwila School District. McCurdy stated he provided confidential information to the Tukwila School District and he believed that Tukwila had violated the Office of Professional Practices⁵ rules by disclosing to SPS HR, information about confidential references he had provided.

McCurdy went on to say that he gave three references for Jones. He reported that he first gave Jones a very good electronic reference in the form of a computer rating where he rated Jones high on a 1-5 scale in particular categories. McCurdy stated that he was later called by an administrator from the Tukwila School District that he had worked with before who asked him about Jones. McCurdy was asked to identify this individual and he refused to provide the identity of this person, stating that this was confidential information he provided to the Tukwila School District. McCurdy stated that he was again contacted by someone from Tukwila School District Human Resources ("Human Resources"), who asked him further questions about Jones. McCurdy said he provided the administrator and HR person his opinion about Jones, that they asked more detailed questions and he provided them with answers. McCurdy was asked if he gave Jones a poor or favorable reference to the administrator and the HR person, and he stated that he gave his opinion. McCurdy denied that he told the administrator or the HR person that Jones had integrity issues, but instead told them that Jones had a poor worth ethic. He denied that he retaliated against Jones for Jones' failure to tell him about his interview with Tukwila School District. McCurdy claimed he was already aware that Jones had an interview scheduled. McCurdy denied changing his positive reference for Jones to one that was negative, offering that he only gave his opinion when asked more detailed questions by the Tukwila School District than were on the reference form.

⁵ The Office of Superintendent of Public Instruction ("OSPI") has The Office of Professional Practices that provides information and services to school districts, parents, attorneys, the educational community, government agencies, and the general public in three specific areas: Investigations, Fingerprint Records, and Administrative Resource Services

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Brame Hostile Work Environment Claim

Brame was asked how McCurdy had creating a hostile work environment and she provided the same examples that she had provided, above. In addition, the following statements were made

Brame stated that McCurdy would often tell her that she is not very smart for somebody with a master's degree and she believed that this was an example of harassment. McCurdy denied ever saying this to Brame.

Jones claimed that when he was first hired McCurdy told him that there was a "fat white girl" that he needed to supervise. Jones believed this was Brame, because she was the only person he supervised. Jones reported that McCurdy told him that Brame did not know how to do her job and he needed to "get her out." Jones stated that McCurdy told him that he wanted Brame "evaluated out." Jones said that McCurdy told him that she knew things about him so he did not need to be a part of her evaluation but did not elaborate on what things she knew about him. McCurdy denied making any of these alleged statements. McCurdy said to Jones, with respect to supervising Brame, that he was to give her a clean slate and evaluate her fairly.

Brame stated McCurdy told her that she had gotten lazy since she had been married. She claimed he told her that she needed to be on her email when she was at home and that she needed to "feed your husband and son, put them to bed and get back to work and your emails." While McCurdy denied that he told Brame that she was lazy after she got married, he did admit to telling her that her "work was lazy." He reported that she had a long history of not doing her work—specifically not fulfilling a primary duty of making sure coaches get paid timely. He also denied making the statement to Brame that she needed to "feed your husband and son, put them to bed and get back to work and your emails."

Brame reported she was dealing with family legal matters that required her to miss work for court hearings and that McCurdy told her that everyone was upset with her for taking so much time off. McCurdy denied saying this, noting that he always encourages his staff to take care of family first.

Softli stated that Brame had come to her a few times last year and told her she was not happy with the way McCurdy treated her. Brame allegedly told her that McCurdy had threatened her job and believed that McCurdy wanted her out. Brame had told her she was looking for other jobs at SPS because of McCurdy's mistreatment.

Additional Witness Statements

Interviews were conducted with people who were identified by McCurdy, Jones, Brame and other witnesses as having direct knowledge about the claims herein. For example, both Jones and Brame stated that Athletic Program Liaisons Greg Brashear and Katie Softli also worked in the athletic department and added that they may have information about allegations they had made against McCurdy; Jones listed West Seattle High School, and Ballard High School AD Carrie Burr as people that he believed may have concerns about the way McCurdy treated them. Each stated that Softli was in the office during regular work hours and Brashear was rarely in the office during regular work hours. The following is a summary of information provided by these witnesses:

Brashear

Brashear stated that he has worked for SPS since 1970 and he has worked in the Athletics department for 15 years, the last five under McCurdy. Brashear stated he is currently a "Retire and Re-hire" hourly employee who works as an Athletic Program Liaison. Brashear denied being harassed, intimidated, or bullied by McCurdy, nor did he witness McCurdy harass, intimidate or bully Brame or Jones. He further stated that he had not witnessed McCurdy act in an unprofessional manner, say inappropriate things, yell, or use vulgar language toward Brame, Jones or others. Brashear did not witness McCurdy talk negatively about his superiors, but in fact, McCurdy told him that he liked McEvoy and Herndon. Brashear questioned the complaints made by Brame and Jones. He said that he recently heard Jones state that he was going to fire Brame, making him question the timing of the complaints against McCurdy.

Softli

Softli reported that she is currently a "Retire and Re-hire" hourly employee who works as an Athletic Program Liaison. She has worked for SPS since 1965 and has worked in the Athletics department for six years. The last five years she has reported to McCurdy. Softli stated she had witnessed McCurdy harass, intimidate and bully Brame and Jones. She stated McCurdy was tough on Brame and Jones and he would often yell at them and berate them.

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Softli added that McCurdy would not talk to Brashear the same way that he spoke to Brame and Jones. McCurdy denied that he yelled at Brame and Jones, but noted that that he would tell them that they needed to do a better job and get their work done.

Davis

McCurdy stated that current Assistant Director of Athletics Tara Davis was an intern in the Athletic department who could speak to the culture of the athletic office and whether or not McCurdy mistreated, harassed or bullied his staff. Davis started her position on 1/4/16. Prior to that she was an intern in the Athletic office for about eight months in the fall and winter of 2011 and she reported to McCurdy. She stated that it was a small office with only McCurdy, Brashear, and Brame working in the office at that time. She said she had a great experience working for McCurdy, whom she characterized as a good teacher and also asserted it was a great environment in which to work. Davis stated she did not witness McCurdy act unprofessionally toward staff, yell at or curse at staff, or harass, intimidate, or bully staff.

McCurdy

McCurdy questioned the timing of the complaint made by Brame and Jones and he believed that Brame and Jones colluded when they filed their complaint. McCurdy stated that a few weeks before the complaint was filed, Jones told him that he was about to fire Brame so McCurdy questioned why only a few weeks later Brame and Jones filed a complaint against him.⁶ McCurdy stated that Jones recently left his position with SPS and he questioned why Jones filed this complaint while “on his way out.”

McCurdy stated that Brame was on a performance plan and had been struggling with her job for years and he speculated that the reason she filed her complaint against him was a result of her concerns with her job security. To support this last claim, McCurdy provided a folder (**Exhibit 5**) that included several emails from AD's and coaches that he believed demonstrated that Brame was not paying coaches, which was her job duty. Included in this folder was a hand written list that McCurdy provided that allegedly listed people who had complained about Brame's failure to pay coaches.

McCurdy also provided a folder (**Exhibit 6**) that included several emails that he believed demonstrated that Jones was not doing his job.

McCurdy provided a folder (**Exhibit 7**) that included several emails and news articles that he believed demonstrated his own character and credibility.⁷

⁶ Brashear also reports hearing Jones say he was going fire Brame, prior to the complaint being filed See above

⁷ McCurdy provided a list of people that he believed the HR investigator should contact for the investigation. McCurdy stated that most of the people he listed would speak to his character.