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**MEMORANDUM**

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To: Members of Clarke County School District Board of Education

cc: Dr. Demond A. Means, Superintendent

From: Mary L. Hubacher, Esq.

Date: April 12, 2018

Subject: **Audit of Handling of Incident at Cedar Shoals High School Involving Sexual Assault of Female Student at School**

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Dear Mr. Bybee, Ms. Davis, Mr. Worthy, Ms. Ellis, Mr. Payne, Mr. Davis, Ms. Williams, Dr. Knox and Ms. Thornton:

Thank you for your confidence in appointing the firm of Buelow Vetter to serve as special counsel to conduct an audit into the manner in which a situation involving a 2016 sexual assault of a student was handled by the District's Administration.

In order to provide context for the audit results, a brief chronology of the events as documented is provided herein. This chronology focuses on the actions of the Administration and not on the Athens-Clarke County Police Department except to the extent that there was communication between the District and the ACCPD. While some of the entries included in the chronology below may be known to Members of the Board and the current Administration, others may not know the specific information. In addition, the chronology below serves to highlight my analysis as to the specific questions posed in Dr. Mean's correspondence dated September 1, 2017 and my recommendations for the District going forward.

**RELEVANT FACTUAL BACKGROUND**

**01/07/2016**

- A female student reported to a CCPD Officer at Cedar Shoals High School that she had allegedly been sexually assaulted at CSHS by three male students that day. Identifies at least one of the alleged suspects.
- Student meets with school counselor and tells her in greater detail what occurred.
- Two of the male suspects brought into security office for possible identification by victim.
- Two male suspects placed in ISS.

- The alleged sexual assault is reported to then CSHS Principal, who assigns CSHS-AP to take the lead on the matter.
- Student is referred to hospital for examination and testing.
- CCSDPD Officer checks video system and does not find any recording.
- Then Clarke County Schools Chief of Police sends email to then Superintendent, Assistant Superintendent and Director of Public Relations/Communications regarding alleged sexual assault.
- ACCPD contacted by CCSD and takes over investigation.
- Director of Public Relations/Communications asks Superintendent if she should alert Board. He responds “yes.”

**01/08/2016**

- CSHS Principal attempts to contact Assoc. Supt-Student Support; leaves a voicemail with Administrative Assistant about a “student issue” that is being investigated.
- Administrative Assistant returns the call and says no further information was provided at that time by the school about the January 7<sup>th</sup> incident.
- Director of Public Relations/Communications sends email to Board regarding report of possible sexual assault at CSHS and that ACCPD investigating. Does not appear that any administrators are copied on the communication nor is a separate communication sent to all central District administrators

**01/11/2016**

- Administrative Assistant first listens to voicemail from CSHS Principal and forwards to Assoc. Supt-Student Support, who responds “keep us in the loop.”

**01/12/2016**

- CCSD Police Chief contacts surveillance video company to repair camera.

**01/15/2016**

- Video surveillance company services recording equipment.

**01/18/2016**

- CCSD Police Officer checks surveillance and finds there is a recording.
- Reports this to CSHS Principal and comments “it’s no longer an allegation; it’s a crime” [Even if crisis team not mobilized before this why not at this point? Communication to internal and external stakeholders?]

**01/30/2016**

- Two students arrested.

**02/01/2016**

- Another student arrested.
- CSHS Principal calls Administrative Assistant to Assoc. Supt-Student Support to report that 3 students being charged with sexual assault/sodomy.

**02/04/2016**

- Athens Banner-Herald prints story regarding alleged rape at Cedar Shoals.
- Assoc. Supt-Student Support says never told “rape” or that students were being arrested on 02/01/16.

**02/05/2016**

- CSHS Principal emails Superintendent and Associate Superintendent-HR providing detailed accounting of incident apparently for first time.
- First communication by Administration to Cedar Shoals’ parents regarding incident

**02/09/2016**

- Superintendent indicates he’ll inform Board. Director of Public Relations/Communication reminds him that she informed Board on January 8, 2016.

**02/14/2016**

- Superintendent schedules meeting with Cedar Shoals faculty.

**02/17/2017**

- Memo from CSHS Principal to Assoc. Supt.-HR outlining why the manner in which this situation was handled and the resulting fall out is “not my fault”

**02/20/2016**

- Email exchange between Assoc. Supt.-HR and CCSD Counsel – “major problem” was allowing alleged suspects to continue to attend school where victim also enrolled.

### **ANALYSIS OF ADMINISTRATION’S HANDLING OF INCIDENT**

An analysis of the Administration’s response to the Cedar Shoals incident highlights the following overarching deficiencies:

- Lack of leadership at the highest level of the Administration.
- Apparent lack of sensitivity to or understanding of the gravity of the situation by administration until the newspaper article regarding “alleged rape” was published on February 4, 2016. In essence, knowledge of an alleged “sexual assault” did not trigger a “crisis” response.
- Lack of policies/protocols for responding to significant safety/security issues including crisis response protocol with identified team of responders.
- Lack of clear, open and timely communication with the administration, building staff, Board of Education, students and parents.

Following is the analysis regarding the specific areas identified in the request for an audit:

- 1. Action of administration in response to the situations upon receipt of information. In particular, did administration act within CCSD policies and procedures? Did administration apply best practices when responding to this situation?**

It is unclear what policies and procedures the District had in place regarding responding to a crisis situation involving an allegation of sexual assault (or other violence against a student) at the time of this incident. Board policy EBB provides that the “Superintendent ensure the safety of all persons within the Clarke County School District.” The policy further requires that the Superintendent, with input from a variety of stakeholders, shall develop an Emergency Operations Plan to address “among other things, preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence and acts of terrorism while providing response protocols to such incidents.” (Emphasis added.) It does not appear that an EOP addressing a crisis situation involving a significant harmful/violent act against a student was in place at the time of this event. In addition, although the CCSD EOP was revised in July 2017, a situation such as occurred at CSHS does not appear to be addressed in the revised EOP as discussed below.

In addition, Board Regulation JAA, which prohibits all forms of discrimination and harassment was revised in January of 2017 so some of that policy may not have been in existence at the time of this incident. However, that regulation still does not provide clear protocol/procedures for responding to an incident in real time as opposed to after the fact. For example, it provides that

upon receipt of a written complaint, a prompt and thorough investigation will be completed and corrective action taken if warranted. It does not address how the Administration will respond when a situation is unfolding as was the case here. There is no crisis response protocol in the regulations nor does the regulation address internal and external communications regarding a situation involving a student being harmed while at school.

In the absence of articulated policies and procedures, administrators should be cognizant of and implement “best practices”. The Administration’s response here did not demonstrate best practices. Administrators at the building level were expected to handle this situation despite the significance and severity of it without any apparent proactive support from central District Administrators. By way of example, after the CCSD Police Chief sent an email to then Superintendent, Associate Superintendent and Director of Public Relations/Communications regarding an alleged sexual assault, it does not appear that any of those individuals contacted CCSD Police Chief or CSHS Principal to obtain additional information. Yet, as evidenced by the fact that building staff directed the parent to have the student examined at the hospital, if Superintendent, Associate Superintendent or Director of Public Relations/Communications had contacted building administrators or staff involved in this situation, they would have learned that the student was alleging that she had been raped. Perhaps knowing the gravity of the situation would have enabled them to lead the district through a very difficult situation.

Best practice would also have been to immediately convene a Crisis Response Team (“CRT”). The team should have been comprised of the Superintendent and/or the Associate Superintendent for Student Support, District’s communication director, Chief of Police or designee, Building principal and associate principal, and other relevant District staff. In addition, the attorney for the District and possibly an outside communications/public relations expert should have been ad hoc members of the CRT.

The purpose of the CRT is to develop and implement an action plan mapping out the next steps to be taken, the individual responsible for each of those steps, the timeline for completion of each step and how information will be communicated among the CRT members going forward. This action plan should have addressed issues such as providing support to the alleged victim including her continued education, options for addressing the alleged perpetrators in the interim, communications to internal stakeholders (students, parents, building staff and Board members), and external stakeholders; initiating an internal investigation; securing of any evidence in the building including immediate contact with video maintenance company to determine whether any video existed; and a plan for a post-incident review to prevent a situation such as this from occurring in the future.

The complete void of any centralized coordinated response to and management of this situation by the highest level of administration created significant gaps in responding to and informing stakeholders resulting in a loss of trust and confidence in the District by stakeholders.

The revised EOP addresses some of these deficiencies; however, the revised EOP does not address all of the issues that led to the mishandling of the CS incident. For example, the revised EOP indicates that the building principal should contact either the Superintendent or Chief of Police. However, as part of a coordinated response both the Superintendent and Chief of Police should be contacted immediately as each will bring a unique perspective to the situation. In addition, each of them will be communicating with different stakeholders so it is important that there is a consistent coordination of communication regarding the incident.

Additionally, the current EOP places significant responsibility for responding to non-media contacts with the Principal at a time when the principal is charged with managing the situation in the building. Thus, it may be difficult for the principal to provide timely response which can create issues around transparency and accessibility to principal as the building spokesperson.

**2. Communication of the situation internally and externally. In particular, did the district communicate transparently? How could the district have communicated more effectively?**

The lack of communication, much less open and transparent communication, is particularly troubling in this situation. Until the word “rape” was used in the newspaper article, this situation did not appear to raise any significant concern among District administrators, as demonstrated by the fact that there was no communication about the incident itself and the District’s response and the steps being taken going forward until after the story broke in the newspaper on February 4. Stakeholders were understandably shocked and caught off-guard which resulted in a very negative backlash from staff, community members, parents, students and Board member towards the Administration and its handling of this matter.

Some of the questions regarding communication raised during the course of this audit include:

- Why wasn’t more complete and thorough communication about the specifics of the situation provided by the building administration to District administrators?
- Why no immediate follow-up either to CCSD Police Chief or Superintendent after the January 7<sup>th</sup> email from Police Chief that referenced an “alleged sexual assault” of a student earlier that day?
- Why wasn’t a team brought together to coordinate the response to this situation as opposed to different individuals operating independent of one another?
- Why no timely communication about the incident to District administrators?
- Why was email the only apparent method of communication about this incident? An immediate dialog either in person or via the telephone would have provided an opportunity to ask questions, gather more information and formulate an appropriate response.
- Why no communication from Central Administration to school community until a month after the incident? And then only after the news article?

- What follow-up communication was taking place between the CCPD and the ACCPD? If there was follow-up communication was that being shared with administration?
- Why was the communication coming from Director of Public Relations and Communications and not Superintendent? Director of Public Relations should be involved in developing the message but Superintendent should be the spokesperson for the District.
- Why no ongoing communication between building administration and superintendent?
- Why was critical information provided to Administrative Assistant A via voicemail instead of District Administrator?

While it is easier to determine how communication should have been handled after the incident has occurred, answering the questions posed above will hopefully provide guidance into the development or revision of communication protocols to be used going forward. The protocols should provide lines or chains of communication regarding:

- Who is the primary contact/spokesperson for internal and/or external communication? EOP places primary responsibility for developing the messages with Director of Public Relations/Communication and for being the primary contact with the media yet the media will be looking to the top administrators to comment and question why not direct contact/comments from Superintendent.
- What specific information will be communicated to different stakeholder groups?
- How will the information be communicated: in-person, via phone, email, etc.?
- Talking points for Board members and administrators who are likely to be asked questions about the situation to provide for consistent communication.
- Accountability going forward.

The goal of a well-developed communication plan should be that no stakeholders are caught by surprise. While specific information may not be able to be shared with all stakeholders, open and transparent communication needs to be a priority so that stakeholders trust the administration and the process for responding to individual student crisis situations.

**3. Which safety protocols and procedures should be reviewed as a result of the situation? Which human resource functions need to be reviewed as a result of the situation?**

As noted above, Board Policy EBB requires that an Emergency Operations Plan be developed to address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence and acts of terrorism. However, as noted above, the EOP should be reviewed and revised to address situations where an individual student experiences a serious injury/assault on school grounds under the “acts of violence” category. The policy seems to focus on “large scale

emergencies”. Thus, safety protocols for addressing an act of violence against a single student should be developed.

Since the incident, Policy JAA has been revised and specifically identifies “any act constituting a sexual assault or attempted sexual assault” as sexual harassment. Pursuant to that policy, Regulation JAA-R(1) which establishes guidelines for prompt and equitable resolution of complaints of discrimination and harassment against student was adopted by the Board. Both the policy and regulation provide protocols for investigating a complaint of harassment including sexual harassment after one has been filed. However, neither the policy nor the regulation provide guidance on responding to an incident of alleged sexual assault immediately upon learning of the situation. Similarly, the Student Harassment Investigation Checklist addresses the investigation of an incident as opposed to responding to an incident. Neither the policy, the regulation nor the checklist include the involvement of a CRT to insure that appropriate personnel are brought together to immediately develop and implement a specific action plan.

#### **4. Recommendations.**

1. The District should review and revise the EOP to determine if it provides sufficient guidance and process for a coordinated District and building response to an incident such as occurred at CSHS. Review the makeup of the SST to include from the outset a central District administrator(s) and external consultants to develop an action plan for responding to the situation in real time as it is unfolding. The action plan should have clearly delineated steps to be taken including, first and foremost, insuring the safety of the alleged victim, the member of the CRT who is responsible for insuring that a particular step is implemented, a detailed communication plan that minimizes the use of email/voicemail as a primary source of communication and includes ongoing, timely communication with all stakeholders.
2. Review and revise Policy JAA and Regulation JAA-R(1) to address responding to incidents of sexual assault as well as investigating such situations.
3. The action items outlined in the “Moving Forward as One Cedar” presentation should be implemented if that has not yet been done. If already in place, those action items should be reviewed to determine whether the district is accomplishing the objective of preventing significant student safety issues from occurring based on the review data since the Cedar Shoals incident.

Thank you for the opportunity to provide an external review and analysis of this most unfortunate situation as part of the District’s review of its systems and processes for managing such a situations in the future.

MLH:knh

