

EXECUTIVE SUMMARY

I. Background and Engagement

Beginning in July 2019 through early 2020, Lake Forest School District 115 (the “District”) received a number of communications from former Lake Forest High School (“LFHS”) students reporting sexual misconduct by former LFHS teacher David Miller. As part of its response to these communications, the District engaged our firm, Rebecca Leitman Veidlinger, Esq., PLLC, to review the adequacy of the District’s response to sexual misconduct allegations involving Miller given the state of the law and best practices at the time of the alleged misconduct and considering current law and best practices. We were also asked to conduct a climate assessment into present circumstances using individual interviews and a District-wide online survey for students and employees. Finally, we reviewed the District’s policies, reporting structures and practices, sexual abuse prevention education, and training related to inappropriate sexual conduct by staff members toward students.

II. Allegations Involving Miller

Our review of the District’s response to the allegations against Miller included more than 200 pages of internal and external documents as well as police reports, court records, online yearbooks, and newspaper articles. We read posts on the Scout Pride Facebook page, a forum used by Lake Forest High School alumni to share their experiences as students. We conducted extensive personal outreach beginning with John Bollman, an advocate for one of the former students who, in 2018, publicly alleged that he (the former student) had been a victim/survivor¹ of sexual abuse by Miller. We went on to interview former students,² faculty and administrators whose time at the District intersected with Miller, as well as members of the Lake Forest Police Department. We also contacted Miller’s attorney and requested an interview. Miller’s attorney said he would speak with Miller and respond to our request. As of the date of this report, we have not heard back from Miller’s attorney.

Miller worked for the District from 1966 to 2009, both as a full-time permanent teacher (through 2002) and as a contract employee working in the theater department (2002-May 2009). On May 27, 2009, Miller submitted a final letter of resignation announcing that his full retirement from the District would be effective on June 30, 2009.

The materials we reviewed and people we spoke with reflected that Miller provided strong leadership of the theater program and mentorship to students on the theater tech crew. Miller

¹ Language is important, and individuals who have experienced sexual misconduct may identify with the label victim, survivor, or other terms. Throughout this report, we have used the term victim/survivor to refer to someone who has experienced sexual misconduct.

² Several former students were represented by attorneys, who advised them not to speak with us. The lack of input from these former students limited the amount of information we were able to obtain.

would give tech crew members rides to lunch spots and rides home after night-time events. Miller's conduct was also notable due to his apparent intimacy with some students. He communicated with some members of the largely male tech crew via text message, often asking about their lives and their relationships with girls, and engaged in joking, "flirting," and horseplay with the tech crew members.

We learned of a number of allegations of sexual misconduct by Miller involving former LFHS students, most of which were raised in emails sent to the District in 2019 and 2020 from individuals who identified themselves as victims/survivors. These emails, police reports, and interviews alleged sexual misconduct beginning in the 1970s and ending with Miller's departure from the District in 2009, including inappropriate and sexualized comments and communications, providing alcohol to students, giving students massages in his home, open-mouth kissing, and sexualized full-body hugging. However, except for the situation which led to Miller's termination (discussed below), none of the information we were able to gather confirmed that any District employees were aware of the alleged misconduct. Several former students interviewed described having suspicions about Miller's conduct, both based on direct observation and general rumors that circulated amongst the students about Miller during his employment, but they did not report it to any District employees. Every former and current employee interviewed (including several high-level administrators) who intersected with Miller said they never observed Miller engage in sexual misconduct and had no direct or indirect knowledge of Miller's alleged sexual misconduct.

The information we collected establishes that the District first became aware of alleged inappropriate sexual conduct by Miller on May 26, 2009. That day, the Lake Forest Police Department notified District Superintendent Harry Griffith and Lake Forest High School Principal Jay Hoffman of a police investigation into a report made by the parents of a LFHS student regarding inappropriate sexual messages exchanged between Miller and the student in late 2008 and early 2009. The police met with Griffith and Hoffman on May 26th and let them look at the extensive messages but did not provide them with copies.³ The police did not tell Griffith and Hoffman the name of the student involved in order to protect the student's identity. The police also told the District that they did not find any evidence of inappropriate behavior beyond the messages. The police informed Griffith and Hoffman that the department would not seek criminal charges against Miller because the messages, while sexual in content and inappropriate between a minor student and teacher, did not constitute a crime and because the student's parents and the student did not want the matter pursued.

Griffith and Hoffman met with Miller later in the day on May 26, 2009. Miller admitted to writing the messages and discussing inappropriate topics with the student and with a few other students. Griffith told Miller that his employment with the District was terminated. Griffith "directed him to refrain from ever returning to [the District's] campus." Miller requested the

³ Our review indicates that the District obtained copies of these messages in June of 2020, through a public records request to the Lake Forest Police Department.

privilege of resigning and leaving the District quietly. Griffith agreed to this request, and Miller submitted a letter of resignation the following work day. Griffith decided to not remove Miller's name from the theater because he was concerned that would have exposed the student whose parents reported Miller to the police. Griffith felt like the District had "done our duty," by protecting the parents of the boy who spoke with the police and by removing Miller from the District "without a public fight." Griffith explained that if he had chosen to fire Miller rather than accept his resignation, the matter would have had to go before the school board in a public manner. Griffith also took into consideration that Miller was close to retirement. Griffith did not take any action with respect to Miller's teaching license or report him to the Illinois State Board of Education because, based on the description of the messages provided to him by the police, he did not think Miller would have lost his license over this conduct. He also did not report the matter to the Department of Child and Family Services ("DCFS") because the police had already investigated it.

Based on the information from the police and from Miller, Griffith and Hoffman determined what they believed to be the identities of the other boys with whom Miller had corresponded. Hoffman spoke with the boys, who told him that there was nothing inappropriate in the messages Miller sent them.

Several years after Miller resigned, the District learned that Miller had been employed by an outside group to assist with a program the group was presenting in the theater. The District contacted Miller to remind him that he was not allowed on campus and Miller ultimately pulled out of the event.

Conclusions

The information obtained during our review indicated that District employees had no knowledge of allegations of sexual misconduct by Miller during the period 1966-2008 such that the District would have been in a position to respond. The information we were able to collect indicates that the District first learned of alleged misconduct by Miller when the Lake Forest Police Department notified the District of inappropriate sexual communication between Miller and one student in May 2009. The District confronted Miller, learned that he had engaged in similar communication with other boys, terminated his employment, and banned him from campus. The District spoke with the boys with whom it believed Miller had corresponded and, based on those conversations, determined that their communications and interactions with Miller did not warrant any additional response.

The District did not report Miller's inappropriate communications with the boy who was the subject of the police investigation to the DCFS given that it was law enforcement who notified the District of the inappropriate communications in the first place and given that law enforcement conducted what Griffith believed to be an extensive investigation into the boy's situation. The police also informed District leadership that the messages were not criminal and emphasized the boy's parents' request that no additional investigation occur. Given the

information provided to the District by the police, it is not clear whether state law in effect at the time required that a report be made specifically to DCFS.⁴

Our review of the messages reflects that—contrary to the police’s summary—the messages do contain information that would suggest an inappropriate physical relationship between Miller and the boy. There are several references to the boy massaging Miller as well as an offer from Miller to massage the boy. There are also references to Miller hugging the boy, and one of those references is in the context of Miller asking the boy if Miller touched him. Thus, the messages may well have presented conduct that was more serious than the police’s summary. However, because of the District’s understandable reliance on that summary, the District’s limited access to the messages at the time of Griffith’s and Hoffman’s meeting with the police, the police’s repeated emphasis that the boy’s parents wished for no further investigation, and the District’s actions to terminate Miller and ban him from campus (such that he would not be able to engage in future sexual misconduct towards District students), we are hesitant to fault the District’s failure to report the messages to DCFS.

In addition, these actions were likely sufficient to show that the District’s response was not deliberately indifferent and therefore not a violation of the Supreme Court’s standards for proving a violation of Title IX of the Educational Amendments of 1972, which prohibits sex discrimination (including sexual misconduct) by educational institutions such as the District. However, the Office for Civil Rights of the U.S. Department of Education had somewhat different standards for its administrative enforcement of Title IX at the time of these events than were applied by the courts. Under these standards, the District was required to take “immediate and appropriate action” in response to a report of possible sexual harassment. The District’s response may well have met these standards, except possibly as regards its efforts to contact other boys with whom Miller communicated. First, it is not clear that the District correctly identified these boys. More importantly, the District readily accepted the statements of the boys with whom it spoke that their communications with Miller were not inappropriate, despite Miller’s apparent acknowledgement in his meeting with Griffith and Hoffman that they were. The boys may well have been too embarrassed to admit to engaging in inappropriate communications with Miller, yet the District did not ask the boys to provide copies of the messages or contact their parents to ask for help in talking with them. While the parents of the reporting student did not want the student involved, the District could have asked the police to let the parents know that it was willing to provide supports to the student. The District could also have provided assistance to the two boys with whom Hoffman spoke if they had indicated that

⁴ The District relied on the police determination that Miller’s conduct was not criminal. However, effective January 1, 2009, the State criminal code was revised to prohibit the act of “grooming.” In light of this statute, the police’s determination that Miller’s conduct was not criminal may have meant that they determined that the messages (which, among other things, referenced the child giving Miller a “massage” and Miller’s offer to give the child a massage) did not fall into the prohibited conduct of grooming. In addition, DCFS rules do not set forth grooming as a basis of a DCFS investigation. See *Make Sexual and Severe Physical Abuse Fully Extinct (Make S.A.F.E.) Report*, September 2020, from the Make S.A.F.E. Task Force, p. 17.

they had also been sexually harassed. Moreover, the District could have taken this situation as an opportunity to take measures to prevent similar misconduct by other employees; e.g., by reviewing its policies and procedures and providing training to students and staff (measures it has taken since, as discussed in subsequent sections of this report).

For similar reasons, the District's response may not have measured up to the best practices in effect at the time of these events or currently. While the District's response might not have met the best practices for addressing claims of educator sexual misconduct, our research and experience reflects that its response was not atypical for school districts at that time. In addition, while there is some information that Miller was recently employed in some capacity for another school district, we did not find any evidence to suggest the District's response enabled Miller to engage in additional alleged sexual misconduct.

III. Review of Policies, Procedures, and Training

For this phase of the review, we reviewed the District's policies and procedures regarding sexual harassment and interactions between employees and students; the training, education, and messaging provided to employees and students; and the structures and mechanisms for both formal and informal reporting (including confidential reporting).

A. Policies and Procedures

The District has a number of policies and procedures relevant to conduct, including sexual harassment, by employees towards students. Those most relevant to our review include:

- 5:90 – Abused and Neglected Child Reporting, adopted February 2020. “Any District employee who suspects or receives knowledge that a student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, shall” immediately report to DCFS. The previous policy, in effect since at least 1999 (and perhaps as early as 1986), was Policy 5.120, which included similar provisions.
- 5:120 – Employee Ethics; Conduct; and Conflict of Interest, adopted February 2020. “Any employee who sexually harasses a student, willfully or negligently fails to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act (325 ILCS 5/), or otherwise violates an employee conduct standard will be subject to discipline up to and including dismissal.” There does not appear to have been a prior version.
 - 5:125 – Social Media and Electronic Communication Policy, adopted March 2018. “[T]o ensure that electronic communications made by employees are appropriate and consistent with goals and policies of the District, and to protect the welfare of both employees and students[.]” Additional provisions prohibit employees from using technology to communicate with a student for personal

purposes through electronic mail, personal messaging programs or text messaging, and ‘friending’ or ‘following’ students’ social media profiles; prohibit transmission of material with sexual content; and provides that employees may be disciplined for violations of the policy. The closest previous policy, in effect since at least 1999, was 5.90, “Personnel: Staff Use of Technology.”

- 7:20 – Harassment of Students Prohibited, adopted October 5, 2020. The policy defines harassment as “verbal, physical, sexual, or visual [conduct] that affects the tangible benefits of education, that unreasonably interferes with a student’s educational performance, or that creates an intimidating, hostile, or offensive educational environment.” It provides that students can report possible harassment to the District’s Nondiscrimination Coordinator (Rebecca Jenkins), the Building Principal, the Assistant Building Principal, the Dean of Students, a Complaint Manager (Jennifer Hermes, COO/CSBO; Jordan Salus, CTO), or any employee with whom the student is comfortable speaking. An employee who receives a report or complaint must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager, and that an employee who fails to do may be disciplined. Employees found to have violated the policy may be disciplined, up to and including discharge. The Policy prohibits retaliation against any person for bringing complaints or providing information about harassment. A previous version of the Policy, adopted in February of 2020, was substantially similar but did not require employees who received a report or complaint of possible harassment to report it or include information on how a complaint or report would be investigated. The version in effect before that, since at least 1999, was “Policy 7.25: Sexual and Other Harassment.”

B. Education and Training

The District provided virtual training for all employees at the beginning of the 2020-2021 school year on “Mandated Reporting, Boundaries, and Mitigating Risk.” The training discussed mandatory reporting of suspected abuse of minors to DCFS, including how to recognize and respond to possible abuse and neglect (including sexual abuse such as sexual penetration, sexual molestation, and sexual exploitation), with Policy 5:90 requiring employees to sign a form indicating that they understand their reporting responsibilities. It also included a section on student and employee boundaries, including online behavior (maintaining professional boundaries, reading and understanding District policies, and only using District-provided or supported technology. The training addressed grooming behavior, including at school and off-hours and through social media.

The District has provided training for employees on Policy 5:125 at the beginning of each school year for the past several years, reinforced throughout the school year by messages emphasizing particular aspects of the policy.

District administrators participated in online training at the beginning of the 2020-2021 school year on new Title IX regulations issued by the U.S. Department of Education, requiring revisions to the District's policies and procedures.

Ninth grade students receive training on student-on-student sexual harassment as part of the wellness curriculum. This training does not address sexual conduct by employees towards students.

Conclusions

The current policies and procedures, and particularly Policies 5:125, Social Media and Electronic Communication (adopted in 2018, before many of the concerns that led to this review arose) and 7:20, Sexual Harassment of Students, address much of the reported conduct that led to this review. This includes use of personal text messaging and email platforms, inappropriate physical contact (including conduct clearly of a sexual nature), grooming behavior, asking students about their dating and sexual activities, and meeting with students alone both on and off campus. Policy 7:20 has been revised to specifically require employees to notify the Complaint Managers or Nondiscrimination Coordinator should they receive a report or complaint. Students have a number of options for reporting possible misconduct. Much of this information is reinforced through training for employees and messaging to employees and students. We conclude that the District's policies and procedures are thorough and in need of only minor revisions. The District's training and messaging are adequate but have room for improvement, particularly regarding training for students.

IV. Current Climate

This portion of our review included interviews with students, employees, and parent leaders, as well as school-wide, confidential surveys of students and employees. All those interviewed were asked about their knowledge of the District's policies and practices regarding employee-student interactions, reporting mechanisms, and sexual abuse prevention education and training. The surveys asked a range of questions related to student and employee thoughts about appropriate student-employee interactions, knowledge of District policies related to such interactions, and expectations regarding reporting inappropriate interactions and the District's response to such reporting.

Conclusions

All those interviewed had a general or "common sense" understanding of the requirements for, and the District's expectations of, employee interactions with students, both electronically and in person, but often this understanding was not grounded in the specifics of the District's policies and training. This finding was reinforced by the survey results, which indicated that sizeable percentages of students would accept certain types of employee conduct that are prohibited by those policies. Interviewees unanimously expressed that all employees and most students and parents would report concerns to someone at the school, and they appreciated having a number

of reporting options (e.g., the Principal, the Dean, another administrator, a teacher, or a school social worker) such that the report would find its way to the appropriate official. This contrasts with the survey results, which indicate that only 61% of students responding to the survey indicated that they would confide in a school official. Similarly, only about half of the students responding to the survey indicated that they knew where to get help regarding concerns about inappropriate employee behavior.

The employees, most of the students, and the parent leaders who were interviewed believe that the District has a sincere commitment to preventing and responding to possible inappropriate interactions. However, a third of students responding to the survey felt that the District was more interested in protecting its reputation than protecting students and 39% of employees felt the same way. The survey results tend to show that employees have even less confidence in the District's commitment than students, and are more concerned about the possibility of retaliation for reporting possible misconduct than students. Even those employees, students, and parents who were interviewed acknowledged that (i) based on recently-surfaced concerns regarding incidents under previous administrations, others in the community did not share their belief in the District's commitment to protecting students from employee misconduct; and (ii) for this reason and others, the District could do more to build trust. As one student stated, "It will take a long time for the District to counter the impressions from its previous failures to take action ... the District has to be prepared to take sustained action to change culture and impressions."

V. Recommendations

The District has taken a number of steps to prevent incidents of educator sexual misconduct, educate its community about sexual misconduct, and improve its response to reports of sexual misconduct. This has included revisions to its policies and procedures to clearly designate prohibited conduct; training for employees to better understand appropriate boundaries in all contexts, including in-person and digital; and clarifying its procedures for responding to complaints. However, we believe that there are additional steps available to the District to further demonstrate and implement its commitment to the safety and well-being of its students.

1. Enhance current policies by adding provisions regarding precursor or grooming behavior, more clearly communicating the requirement to report reasonable suspicions of misconduct, adding examples that involve teacher-student scenarios, requiring employees to sign acknowledgement forms for all relevant policies, and adding a reference in Policy 7:20 to Policy 5:125.
2. Clarify provision in Student Handbook regarding educator sexual misconduct.
3. Add page to website on sexual harassment and improve search functions.
4. Provide more comprehensive information for parents on a more regular basis.

5. Engage staff more robustly in sexual misconduct prevention efforts to improve staff knowledge of District policies and procedures and build staff-administration trust.
6. Conduct regular climate surveys regarding sexual misconduct.
7. Improve notifications and messaging regarding employees' mandatory reporting responsibilities.
8. Expand and clarify use of Confidential Reporting Tool.
9. Enhance training content, methods of delivery, and regularity of training about sexual misconduct, and ensure that state mandates are satisfied.
10. Improve investigator skills, develop reliable record-keeping protocols, and increase transparency around investigative process.
11. Ensure the District has robust supports in place for vulnerable students.
12. Review and monitor physical space on the high school campus.
13. Consider suggestions from advocate John Bollman.
 - Restructure or hire a Nondiscrimination Compliance Officer.
 - Establish ongoing support system for past misconduct.

VI. Conclusion

We are impressed by the District's commitment to examine the circumstances surrounding the allegations involving David Miller, and we appreciate the frankness of Lake Forest's students, parents, and employees in their interviews and survey responses. We note that the genesis for this review stems from the number of former students who reached out to the District in 2019 and 2020 to share their experiences. Were it not for those courageous individuals, the important work of this review would not have taken place.

Over the course of our review, numerous individuals commended the District's decision to conduct this external review and the District's attempt to understand what had occurred in the past. Those individuals asked that the lessons learned from our work find genuine purpose in implementation to prevent possible future incidents of educator sexual misconduct. Based on our experiences conducting this review, we have confidence in the District's ability to integrate our recommendations effectively toward this goal.

Lake Forest High School District 115 Review



I. Background and Engagement

Beginning in July 2019¹ through early 2020, Lake Forest School District 115 (the “District”) received a number of communications from former Lake Forest High School (“LFHS”) students reporting sexual misconduct by former LFHS teacher David Miller.² As part of its response to these communications, the District engaged our firm, Rebecca Leitman Veidlinger, Esq., PLLC, to evaluate certain past District practices and provide recommendations for future practices related to appropriate interactions between District employees and students. More specifically, we were asked to review the District’s response to sexual misconduct allegations involving former employee David Miller; to conduct a climate assessment into present circumstances using individual interviews and a District-wide online survey for students and employees; and to review the District’s policies, reporting structures and practices, sexual abuse prevention education, and training related to inappropriate sexual conduct by staff members toward students. The scope of the review included three phases, which were conducted concurrently.

II. Scope of Work and Methodology

A. Phase One: Review of Allegations and Response to Allegations Involving Miller

The scope of our review was initially defined and then subsequently amended by the District’s Board of Education to comprise the following:

Provide review of the District’s handling of misconduct allegations against David Miller during his employment and raised in 2019 based on documented response and interviews of identified District personnel and former students, including whether response was adequate given the state of the law and best practices at the time of the misconduct and considering current law and best practices. The review should be inclusive of information from former student(s) alleging direct misconduct by David Miller of a character or severity and context that warrants review of the District’s handling. This component of the review shall not include allegations against other school personnel except where relevant to the District’s handling of misconduct allegations against David Miller.

Our work on Phase One began with a review of more than 200 pages of written documents that [REDACTED] police reports and related evidence, and other documents provided by the District. We also reviewed court records, online yearbooks, and newspaper

¹ Lake Forest Police received an anonymous report of sexual misconduct by Miller in January 2018. The Police contacted the District and was told that Miller had been asked to leave in 2009 due to inappropriate text/instant message conversations with a student.

² The District referred all reports of alleged sexual misconduct to its counsel to determine if the reports had to be reported to the appropriate State authorities.

articles. We read posts on the Scout Pride Facebook page, a forum used by Lake Forest High School alumni to share their experiences as students.

We conducted extensive personal outreach to former students and to faculty and administrators whose time at the District intersected with Miller. We began our outreach by speaking with John Bollman, an advocate for one of the former students who, in 2018, publicly alleged that he (the former student) had been a victim/survivor³ of sexual abuse by Miller. Bollman provided us with background information and names of people who might have information relevant to our review. Bollman continued to provide information and serve as a resource to us throughout our work, and we are grateful for his contributions.

We reached out, depending on the contact information available, by email, text message, phone call/voice mail, Linked In message, and Facebook message to more than 50 people. District leadership was instrumental in helping us obtain contact information for potential interviewees. We identified potential interviewees through several means. Prior to our engagement and following the public allegations from the former student working with Bollman, a number of individuals contacted the District and either self-identified as victims/survivors of sexual abuse by Miller or provided information that indicated they had knowledge relevant to possible alleged incidents of sexual abuse by Miller. Others disclosed such information on the Scout Pride Facebook page. Other alleged victims/survivors of alleged sexual abuse were identified over the course of our investigation during our investigative interviews. We also spoke with attorneys for some individuals who self-identified as victims/survivors of alleged sexual abuse by Miller.

In total, we identified 14 former students who either self-identified as victims/survivors of alleged sexual abuse by Miller or who were described by third parties as possible victims/survivors of alleged sexual abuse by Miller. Of these 14 individuals, one person agreed to speak with us. Seven people were represented by attorneys, and their attorneys informed us that the men refused to speak with us. Two who identified as victims/survivors in correspondence to the District prior to our engagement refused to speak with us. Four individuals did not respond to our repeated outreach. The lack of direct input from those who self-identified as victims/survivors of sexual abuse by Miller has limited the amount of information we were able to collect with respect to Miller's alleged misconduct, whether any of those individuals reported the conduct to District employees, and whether any District employees otherwise knew of or assisted those individuals with their concerns.

From email correspondence sent to the District prior to our engagement, from suggestions by District leadership, and through ongoing interviews, we identified more than 40 former students and former and current faculty and staff who potentially had information relevant to our review.

³ Language is important, and individuals who have experienced sexual misconduct may identify with the label victim, survivor, or other terms. Throughout this report, we have used the term victim/survivor to refer to someone who has experienced sexual misconduct.

We interviewed 23 of these individuals, and the others either declined to be interviewed or did not respond to multiple attempts at outreach.

In connection with our review of police reports reflecting the criminal investigations into allegations of Miller's conduct and court records relating to a 1991 assault charge against Miller and a subsequent not guilty verdict, we spoke with the Chief of the Lake Forest Police Department ("LFPD") and interviewed two LFPD detectives.

We also contacted Miller's attorney and requested an interview. Miller's attorney said he would speak with Miller and respond to our request. As of the date of this report, we have not heard back from Miller's attorney.

B. Phase Two: Climate Assessment

The scope of our climate assessment was defined by the District's Board of Education to comprise the following:

Provide climate assessment by conducting student and staff surveys and remote interviews of the following individuals:

- o Student advocate John Bollman
- o The former student working with Bollman
- o Selection of current and former students
- o Selection of school personnel

The former student working with John Bollman declined to be interviewed; however, John Bollman did participate. The District helped us identify 14 current students and recent graduates to interview. The students were selected based on their leadership roles within the District and/or participation in theater, athletics, and other extra-curricular activities, giving them the opportunity to interact with teachers and other school staff both in and out of the classroom. The parents of all of the current students and recent graduates were notified about the interviews. All of the current students and recent graduates agreed to be interviewed.

The District also identified 6 administrators, teachers, and other staff, with all but one agreeing to be interviewed; an additional five individuals were suggested by the others being interviewed. The employees interviewed have been with the District for between two and 20 years and have interacted with students in a variety of contexts, including individuals working in student/extracurricular activities, educational services, theater, technology, human resources, administration, student wellness, and various academic departments. We also interviewed three parent leaders from the Association of Parents and Teachers and booster club activities. All those interviewed were asked about their knowledge of the District's policies and practices regarding employee-student interactions, reporting mechanisms, and sexual abuse prevention education and training.

In November 2020, we conducted a high school-wide survey of students and employees using separate survey tools for students and employees. The District's Superintendent notified parents prior to issuance of the student survey and gave parents of minor children the opportunity to opt their students out of the survey. Fourteen students were opted out of the survey. All other enrolled students received a link to the voluntary survey on November 2, 2020 and had until November 6, 2020, to complete it. Of the District's approximately 1550 students, 254 students opened the survey and 169 answered at least some of the questions, for a response rate of 11%. The District's 300+ employees received a link to the optional survey on November 9, 2020, and had until November 12, 2020, to complete it; seventy-four responded for a completion rate of 25%. The surveys asked a range of questions related to student and employee thoughts about appropriate student-employee interactions, knowledge of District policies related to such interactions, and expectations regarding reporting inappropriate interactions and the District's response to such reporting.

C. Phase Three: Review of Policy and Practices

The scope of our review of policy and practices was defined by the District's Board of Education to comprise the following:

Provide review of the District's policies, reporting structures and practices, sexual abuse prevention education, and training related to inappropriate sexual conduct by staff members toward students. Review to include interviews of current responsible District personnel regarding current practices.

For this phase of the review, we reviewed the District's policies and procedures regarding sexual harassment and interactions between employees and students; the training, education, and messaging provided to employees and students; and the structures and mechanisms for both formal and informal reporting (including confidential reporting). Those individuals who were interviewed for Phase Two were also asked about these issues, particularly with respect to their contributions to, and perceptions of, the climate.

III. Review of Allegations Involving Miller and District's Response to Allegations

A. Summary of Relevant Factual Findings: Context and Allegations⁴

Miller worked for the District from 1966 to 2009, both as a full-time permanent teacher (through 2002) and as a contract employee working in the theater department (2002-May 2009). On May 27, 2009, Miller submitted a final letter of resignation announcing that his full retirement from the District would be effective on June 30, 2009.

⁴ We did not conduct separate investigations into each allegation against Miller or make any determination as to whether the allegations were substantiated by available evidence. The allegations referenced below are from the perspective of the person who provided the information. For those individuals who declined to speak with us, the accounts included in this section are based on information they provided to the District via email.

The materials we reviewed and people we spoke with reflected that Miller's time at the District was notable for two major qualities: intense anger resulting in frequent outbursts, and strong leadership of the theater program/mentorship to students on the theater tech crew. Numerous students, faculty, and administrators witnessed Miller's temper issues; [REDACTED]. And, in 1991, he was charged and acquitted of misdemeanor battery.

The same interviewees who noted Miller's anger issues also praised his mentorship for, and support of, students in the tech crew, which LFHS graduates described as a small, close-knit community of students, many of whom did not feel at home in other parts of the school. Interviewees described very close relationships between Miller and some members of the tech crew, which included Miller giving tech crew members rides to lunch spots and rides home after night-time events; Miller communicating with some members of the largely male tech crew via text message, often asking about their lives and their relationships with girls; and Miller engaging in joking, "flirting," and horseplay with the tech crew members.

We learned of a number of allegations of sexual misconduct by Miller involving former LFHS students. The majority of our information about those allegations derived from emails that self-identified victims/survivors sent to the District in 2019 and 2020. None of the six self-identified victims/survivors who emailed the District allegations of sexual misconduct agreed to speak with us, with three declining through their attorneys, two declining our outreach directly, and one not responding to our outreach. We learned about two other self-identified victims/survivors from police reports; those two individuals declined to speak with us through their attorneys. One self-identified victim/survivor spoke with us about his experience, and another LFHS graduate who did not identify as a victim/survivor but who described allegedly inappropriate Facebook messages from Miller spoke with us as well. We were unable to reach one individual who we believe was the focus of a 2009 police report, as we did not have confirmation of this former student's identity or contact information.

In those emails, police reports, and interviews, we learned of alleged sexual misconduct beginning in the 1970s and ending with Miller's departure from the District in 2009. Individuals alleged Miller's misconduct included inappropriate and sexualized comments and communications, providing alcohol to students, giving students massages in his home, open-mouth kissing, and sexualized full-body hugging.

B. Summary of Relevant Factual Findings: District's Awareness of Miller's Alleged Sexual Misconduct

1. Awareness By Students

No students interviewed told us that they were aware of any specific incidents of alleged sexual misconduct by Miller during the time they were enrolled at LFHS, other than the students who self-identified as victims/survivors. This includes at least five students who were part of the tech

crew and who had significant interactions with Miller spanning the time period from 1973 to 2009, who said they had no actual knowledge of any sexual misconduct by Miller. Four of those students never heard any rumors of inappropriate conduct.

Several students interviewed described having suspicions about Miller's conduct, both based on direct observation and general rumors that circulated amongst the students about Miller during his employment. [REDACTED]

[REDACTED]

[REDACTED]

One student who described these behaviors said they did not think any of the students ever told any employees about their suspicions and beliefs about Miller's inappropriate conduct, although that student [REDACTED] heard a rumor that another student came forward with inappropriate text messages between him and Miller at one point.⁵ That same student recalled that friends would show the student text messages that Miller had sent them. One friend showed this student a text message from Miller offering to buy the student condoms and sex toys if the friend felt uncomfortable getting them. That student also saw texts from Miller to boys asking about their relationships with girls.

⁵ While we were unable to determine for certain due to the heavy redactions in the police reports we reviewed, we believe the person who this student believed came forward to the school regarding inappropriate text messages is the student whose parents reported the messages to the police in 2008-2009. The student's parents did not inform the high school of the messages.

2. Awareness by Employees

Every former and current employee interviewed (12 total for this portion of our review), including several high-level administrators, who intersected with Miller said they never observed Miller engage in sexual misconduct and had no direct or indirect knowledge of Miller's alleged sexual misconduct, other than the incident that led to the end of Miller's employment with the District in 2009 (discussed below). [REDACTED]

Circumstantial information collected suggests that at least two employees may have had some level of knowledge of possible sexual misconduct, although we were unable to corroborate these second-hand accounts. [REDACTED]

Another student who graduated in 1980 told us they spoke to a retired staff member within the past year and a half, a discussion prompted by allegations against Miller becoming public in the summer of 2019. [REDACTED]

[REDACTED] We emailed the person we believed to be the retiree in question and asked to speak with her, but she declined to speak with us, emailing only, "The safety and welfare of our students at LFHS have always been dear to my heart. However, I am not anyone who could shed light on your inquiries."

[REDACTED]

C. Summary of Relevant Factual Findings: District's Response to Known Reports of Sexual Misconduct

The information we collected establishes that the District first became aware of alleged inappropriate sexual conduct by Miller on May 26, 2009. That day, the Lake Forest Police Department notified District Superintendent Harry Griffith and Lake Forest High School Principal Jay Hoffman of a police investigation into a report made by the parents of a LFHS student. Police told Griffith and Hoffman that the student's parents alerted the police to inappropriate sexual messages exchanged between their student and Miller in late 2008 and early 2009. The police met with Griffith and Hoffman on May 26, 2009, and presented them with a pile of paper that the police said were messages exchanged between Miller and a boy enrolled at the high school. Griffith was permitted to look through the material, but the police did not provide him with copies of the messages.⁶ The police did not tell Griffith and Hoffman the name of the student involved in order to protect the student's identity, and that information had been redacted from the messages the police showed them. The police informed Griffith and Hoffman that the messages, while sexual in content and inappropriate between a minor student and teacher, did not constitute a crime and that therefore, the department would not seek criminal charges against Miller.

Recalling these events in 2020, Griffith told us that the police "came on very strong" that they had no reason to pursue criminal charges based on the messages and that the boy's parents were "adamant" to "please drop this," as the parents did not want their son involved. Griffith said the police explained the situation and "stressed they did not find any evidence of inappropriate behavior, and recommended -- strongly recommended -- that there was no need for further investigation." Griffith felt that it was important to "pay attention" to the parents' wishes as described by the police. For his part, Hoffman recalled that the police counseled the District to "leave it alone," because the boy's parents and the boy wanted privacy.

[REDACTED]

⁶ Our review indicates that the District obtained copies of these messages in June of 2020, through a public records request to the Lake Forest Police Department.

[REDACTED]

Griffith and Hoffman met with Miller later in the day on May 26, 2009. Miller admitted to writing the messages and discussing inappropriate topics. [REDACTED]

[REDACTED]

Griffith recalled telling Miller that Griffith was disgusted that the theater was named for him and making a “veiled threat” that Griffith might take action to remove Miller’s name. However, in protecting the family of the boy whose messages were reported to the police, Griffith was trying to determine what the right action was under the circumstances. He realized that if he moved to rename the theater, it would have exposed the student, and Griffith thought Miller would have channeled the community to support him. Griffith recalled that he wasn’t trying to “grow the problem,” but rather was “trying to eliminate it.” Griffith did not recall any discussion about removing Miller’s name from the Wall of Fame at that time.

Griffith told Miller that his employment with the District was terminated. Griffith “directed him to refrain from ever returning to [the District’s] campus.” Miller requested the privilege of resigning and leaving the District quietly. Griffith agreed to this request, and Miller submitted a letter of resignation the following work day.

Griffith said during his interview that he felt like the District had “done our duty,” by protecting the parents of the boy who spoke with the police and by removing Miller from the District “without a public fight.” Griffith explained that if he had chosen to fire Miller rather than accept his resignation, the matter would have had to go before the school board in a public manner. Griffith also took into consideration that Miller was close to retirement anyway. Griffith did not take any action with respect to Miller’s teaching license or report him to the Illinois State Board of Education. Griffith did not think Miller would have lost his license over this conduct based on Griffith’s past experience working on teacher licensing issues. For all of these reasons—Griffith did not think the conduct rose to that level, plus Miller was retiring, plus he was trying to protect the boy’s family—Griffith handled the matter as he did. Griffith further explained that if a parent had reported the matter to the District, the District would have called DCFS. However, Griffith explained that in this circumstance the parent went to the police, and the police did a “huge” investigation.

Based on the information from the police and from Miller, Griffith and Hoffman determined what they believed to be the identities of the three boys with whom Miller had corresponded, and they determined which set of parents they believed contacted the police. [REDACTED]

[REDACTED]

[REDACTED]

In his interview, Hoffman recalled that the boys told him that there was nothing inappropriate in the messages Miller sent them. Speaking in 2020, Griffith said while Miller’s conduct with the boy whose parents went to the police violated the District’s policy regarding inappropriate contact with a student, Miller’s conduct toward the other boys did not because Hoffman “investigated” that conduct by talking with the boys, who told him that the nature of the correspondence was different⁸; Griffith and Hoffman therefore concluded there was nothing to pursue with respect to the other boys.

[REDACTED]

In our interview with Griffith, he was unable to recall if he or Hoffman notified the police of these additional boys. Police records obtained for this review do not include any indication that the police or DCFS were ever notified that Miller had communicated with additional boys. In his interview with us, Hoffman said he did not feel that it was necessary to share those boys’ names with the police at that time because he “didn’t feel there was anything to it.” Additionally, as Griffith—Hoffman’s supervisor—was involved, Hoffman felt he had appropriately “reported up” regarding the other boys.

⁷ Based on our review of all of the relevant materials and our interviews, it appears that Griffith and Hoffman may have been mistaken as to the identity of the boy whose parents reported to the police and incorrectly concluded that there were three boys total who were affected; rather, it appears that there were three boys in addition to the boy whose parents reported to the police.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. Summary of Relevant Factual Findings: Post May 2009 Miller Contact with District

Several years after Miller resigned in 2009, Assistant Superintendent for Business Allen Albus received a call from a District employee who handled scheduling for District buildings. She told Albus that an external group was coming to the high school to put on a program in the theater,

and the group planned to employ Miller to handle the sound and lights for the program. At that time, the employee was under the impression that Miller had been told to never come back to the District, so she expressed concern to Albus about the group's plan. Albus did not see any information in [REDACTED] indicating that Miller was not permitted on campus, so he called Griffith, who had since retired, and asked Griffith if Griffith told Miller he was not permitted back on campus. Griffith told Albus "adamantly" yes, that Griffith did advise Miller he was not permitted back on campus. Albus then called Miller and told him that he had been warned not to come back. Miller "got animated," but Albus said he would call Miller's then-employer unless Miller agreed not to come to campus. Miller then agreed not to come to campus, and he ultimately pulled out of the event. Albus then called the scheduling employee and told her that she was correct, and he told her they needed some documentation regarding what had occurred. This incident prompted the District to engage counsel to confirm Miller's agreement not to come to campus. [REDACTED]

Hoffman recalled seeing Miller on one occasion at a high school performance in the David Miller Theater, although he was unable to recall the year. Hoffman said he was not aware that Miller's presence caused a problem for anyone, as Miller was simply a member of the audience. Hoffman did not think anyone noticed Miller's presence.

E. Conclusions: Adequacy of District's Response

1. Response to Known Allegations of Misconduct 1966-2008

As detailed in the sections above, we were unable to determine by the preponderance of the collected evidence that any District employees had knowledge of allegations of sexual misconduct by Miller during the period 1966-2008 such that the District would have been in a position to respond.

We note that information collected includes numerous individuals who identified themselves as victims/survivors of Miller's alleged sexual misconduct. We further note that all but one of these individuals declined to speak with us; the one who did share his experience told us that he never reported the matter to any District employees. Our attempts to contact former District employees who some interviewees suggested may have had knowledge of sexual misconduct allegations were unsuccessful. Our conclusion that there is no substantiated evidence that the District was informed of those alleged incidents does not establish that those incidents did not occur or that those individuals did not experience harm.

2. Response to Known Allegations of Misconduct 2009-present⁹

a. State Law: Lack of Report to DCFS

The information we were able to collect indicates that the Lake Forest Police Department notified the District of inappropriate sexual communication between Miller and one student in May 2009. As noted above, based on this information from the police, the District: confronted Miller; learned that Miller had engaged in similar communication with other boys; permitted Miller to resign from the District; spoke with two boys and, based on those conversations, determined that their communications and interactions with Miller did not warrant any additional response; instructed Miller that he was not permitted back on campus; [REDACTED]

The District did not report Miller's inappropriate communications with the boy who was the subject of the police investigation to the State's Department of Children and Family Services ("DCFS"), as required by the version of the Abused and Neglected Child Reporting Act ("ANCRA")¹⁰ in effect in 2009. Griffith felt such reporting was unnecessary given that it was law enforcement who notified the District of the inappropriate communications in the first place and given that law enforcement conducted what he believed to be an extensive investigation into the boy's situation. The police also informed District leadership that the messages were not criminal and emphasized the boy's parents' request that no additional investigation occur. [REDACTED]

In addition, the version of ANCRA in effect in 2009 defined the category of reportable conduct as more than just those acts prohibited by the State's criminal code.¹¹ Indeed, ANCRA

⁹ We reviewed numerous articles and studies published during the relevant time period to assess the best practices in the field of educator sexual misconduct as well as the typical practices in the field of educator sexual misconduct. We relied primarily on the following sources: U.S. Department of Education, Office of the Under Secretary, *Educator Sexual Misconduct: A Synthesis of Existing Literature*, Washington, D.C., 2004; Shakeshaft, Charol and Cohan, Audrey. "Sexual Abuse of Students by School Personnel." *Phi Delta Kappan*, vol. 76, Issue 7, Mar 1995; Cohan, Audrey. *Child Sexual Abuse Within the Schools*. 1991. Hofstra University, Ed.D dissertation; Joslyn, Jamie. *Female Teachers As Sexual Predators: A Qualitative Study of Grades 7-12 in the State of Florida's Public Schools*. 2011. University of South Florida, Ed.D dissertation; Spain, Carolyn. *Practices and Policies in High Schools to Prevent Educator-to-Student Sexual Misconduct: A Principal's Study of Knowledge and Experiences*. 2010. University of North Texas, Ed.D dissertation; Cairns, Sylvia Sonja. *School Principals' Knowledge and Understanding of Educator Sexual Misconduct Against Students*. 2006. University of South Florida, Ed.D dissertation; Robinson, Lorie K. *Sexual Contacts Between Teachers and Students: A Study of the Knowledge and the Perceptions of Public School Teachers in British Columbia, 1985 – 1986*. 1986. Brigham Young University, Ed.D dissertation; and Hutchings, Troy R. *Teacher Sexual Misconduct With Students: The Role of Teacher Preparation Programs as a Prevention Strategy*. 2009. Northern Arizona University, Ed.D dissertation.

¹⁰ 325 ILL. COMP. STAT. 5/4 (2020).

¹¹ The District relied on the police determination that Miller's conduct was not criminal, which is one reason why it did not report Miller's conduct to DCFS. We note that effective January 1, 2009, an Illinois statute defined and prohibited for the first time in the State's criminal code the act of "grooming." 720 ILCS 5/11-25. In pertinent part,

mandated reporting to DCFS where a person responsible for the child's welfare perpetrated abuse that inflicted “impairment of physical or emotional health.”

The question is therefore whether the District should have reasonably considered the messages Miller exchanged with the boy whose parents reported to the police to constitute abuse that inflicted impairment of the boy’s emotional health [REDACTED] and Griffith and Hoffman, the police downplayed the severity of the messages’ content. According to Griffith, the police did not provide the District with a copy of the messages; rather, the police officers summarized the content of the messages for him, and they permitted him to review the messages at the police station. [REDACTED]

[REDACTED] Griffith and Hoffman understandably relied on the police’s summary of the messages and did not have the opportunity to thoroughly examine the more than 80 pages of messages, as we did for our review.

The District’s reliance on the police’s summary, the police’s emphasis on the parents’ wish that nothing further be done, and its inability to thoroughly review all of the messages is unfortunate, as our review of the messages reflects that—contrary to the police’s summary—the messages do contain information that would suggest an inappropriate physical relationship between Miller and the boy. There are several references to the boy massaging Miller as well as an offer from Miller to massage the boy. There are also references to Miller hugging the boy, and one of those references is in the context of Miller asking the boy if Miller touched him inappropriately and mentioning that he was accused of [REDACTED]

While we are inclined to find from our perspective that the messages do constitute abuse that could have reasonably inflicted impairment of the boy’s emotional health, Griffith and Hoffman had a different perspective of the matter in 2009. Given the information provided to the District by the police, it is not clear whether state law in effect at the time required that a report be made specifically to DCFS. We are, therefore, hesitant to fault Griffith’s and Hoffman’s failure to report Miller’s messages to the boy to DCFS. As discussed above, this hesitance is based in part on Griffith’s and Hoffman’s understandable reliance on the police’s summary of the messages

that statute defined grooming as the use of a device capable of electronic data storage or transmission to “seduce, solicit, lure, or entice” a child to commit a sex offense or to otherwise engage in any unlawful sexual conduct with a child. In light of this statute, the police’s determination that Miller’s conduct was not criminal meant that they determined that the messages that referenced the child giving Miller a “massage” and Miller’s offer to give the child a massage did not fall into the prohibited conduct of grooming.

and their brief access to the messages; we also acknowledge that the police’s repeated emphasis that the boy’s parents wished for no further investigation impacted their decision on whether to follow up on the boy’s situation.¹² This hesitance is also based on the decisive actions that Griffith and Hoffman did take with respect to Miller’s conduct towards this boy, namely confronting Miller that same day with the intention of firing him, bringing about the end of his employment with the District that same day, ordering him not to return to the District’s campus, and speaking with two boys who reported that Miller’s communications with them had not been inappropriate. These actions, of which we have no criticism, reflect that Griffith took the matter quite seriously.

b. Relevant Federal Laws in Effect in 2009

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex, including sexual harassment. It applies to all educational institutions that receive money from the federal government, such as the District. It is enforced administratively through the U.S. Department of Education’s Office for Civil Rights (“OCR”) and through private lawsuits for money damages. As discussed in detail in our summary of legal framework (submitted separately from this report), the courts and OCR apply somewhat different standards in determining whether a school district has responded properly to a report of sexual harassment. For the past 20 years, courts have looked to see if a district’s response was “deliberately indifferent.” OCR’s approach has changed over the years: guidance issued in 1997 and revised in 2001 (and in effect in 2009) provided that a district’s response should be “immediate and appropriate,” while more recently the agency has moved closer to the “deliberate indifference” standard.

According to the information obtained during our review, the District first became aware of the communications between Miller and the boy whose parents reported the matter to the police in 2009; we did not find any information indicating that the District should have known about Miller’s conduct before then.¹³ Even though the police did not provide the District with much time to review the communications, this would likely constitute notice under the Supreme Court’s standards for private Title IX suits for damages and OCR’s standards for administrative enforcement. Because the communications were from a teacher, they might not be subject to the Supreme Court’s severe, pervasive, and objectively offensive standard for student-on-student sexual harassment; regardless, they would likely meet this standard. They would also meet OCR’s 2001 standard for being sufficiently serious to interfere with the student’s ability to participate in the District’s education program. Thus, the key issue for both standards, as well as for 42 U.S.C. § 1983, another federal statute under which a person can bring a discrimination claim, is the District’s response: whether it was deliberately indifferent under the Supreme

¹² Additionally, it is unclear whether DCFS would have acted upon any such report, as DCFS rules do not set forth grooming as a basis of a DCFS investigation. *See Make Sexual and Severe Physical Abuse Fully Extinct (Make S.A.F.E.) Report*, September 2020, from the Make S.A.F.E. Task Force, p. 17.

¹³ While Miller was charged with assault in 1991, the alleged conduct was not sexual in nature, and he was acquitted.

Court's standards and for 42 U.S.C. § 1983, and whether it was immediate and appropriate under OCR's 2001 standards.

As to the question of whether the District displayed deliberate indifference under Title IX toward the boys' situations, we note that Griffith and Hoffman took a number of actions consistent with the parents' request that the student not be involved, including confronting Miller the same day they met with the police with the intention of firing him, bringing about the end of his employment with the District that same day, ordering him not to return to the District's campus, and speaking with two boys who ultimately reported that Miller's communications with them had not been inappropriate. Some courts have held that, in order to receive damages, a student must prove that a district's response resulted in or allowed further harassment; other courts have said that the student must only show that the response made them vulnerable to further harassment. Regardless, in this case, by terminating Miller's employment, the District prevented any further harassment of the reporting student or any other student. This would likely be enough to show that the District was not deliberately indifferent to the report of sexual misconduct.

As to whether the District took immediate and appropriate action sufficient to meet OCR's 2001 standards, the issue is less clear. Under OCR's 2001 guidance, a school district cannot simply rely on a police investigation, but has an independent duty to try to determine what happened. In this case, the District did take the actions described above. Rather than relying on the brief opportunity to review the messages in the meeting with the police and the police's brief (and somewhat downplayed) description of the communications, perhaps the District could have submitted a public records request for the communications at issue, as it did in June of 2020; however, given that the police would not disclose the identity of the boy and given the parents' wishes that their son not be involved, it does not seem likely that obtaining the actual messages would have changed the District's response.

Perhaps of more concern was the District's efforts to contact other boys with whom Miller communicated. [REDACTED]

[REDACTED] For the reasons described above, and particularly if Miller had said that his communications with the other boys was "similar" to his communications with the reporting student, it is concerning that the District so readily accepted the students' representations that the communications were not similarly sexual in nature—at least, not without contacting the students' parents to ask for their help in talking with the boys.

[REDACTED]



c. District's Response and Current Laws

With respect to evaluating the District's responses to Miller's alleged conduct under State laws currently in effect, our opinions are largely the same. The version of ANCRA in effect today differs significantly from the versions in effect during Miller's employment with the District. However, our conclusion regarding ANCRA compliance is unchanged. The evidence we were able to collect indicates that the District was not aware of Miller's alleged conduct prior to 2009, such that the District did not fail to comply with any mandatory reporting laws before then because it was unaware of any alleged abuse. Once the District became aware of the police report of inappropriate sexual communication in 2009, the District reasonably relied on the police's characterization of Miller's communication with the boy and their determination that the messages were not criminal conduct, the police did not provide the District with a copy of the messages, and the boy's parents did not want any further action to be taken. Thus, the preponderance of the evidence establishes that the manner in which the District responded to the 2009 report of inappropriate sexual communication constituted was likely not an unreasonable failure to comply with ANCRA's requirement of mandatory reporting to DCFS because the District would not reasonably have known that the content of the messages indicated that physical sexual contact between Miller and the boy may have occurred.

We were also asked to examine the adequacy of the District's response under current federal law. As described in our summary of legal framework (submitted separate from this report), OCR issued new regulations in August 2020 which more closely adopted the Supreme Court's Title IX standards for private lawsuits for damages to its administrative enforcement, including the deliberate indifference standard. In addition, a school district would only be required to investigate a report if it received a formal complaint, and only conduct taking place in the context of an education program or activity is prohibited. As indicated above, the District's response was enough to meet the deliberate indifference standard, the District never received a formal complaint, and much of the communication took place outside the education context. For these reasons, the District's response in 2009 would likely satisfy OCR's current standards and requirements.

d. Evaluation Against Best Practices

[REDACTED] Miller told the District that he engaged in similar communications with three ([REDACTED] or at least three [REDACTED] boys. The preponderance of the evidence we collected establishes that Hoffman spoke with the two boys with whom he believed Miller had communicated—and did not speak with the third, whose parents reported to the police, in accordance with those parents’ wishes—and accepted the boys’ representation that Miller’s communications with them were not inappropriate. No other action was taken with respect to the other boys that the District believed Miller was referring to. [REDACTED]

[REDACTED]. Our conversations with Griffith and Hoffman and suggest that Hoffman and Griffith failed to engage in a robust and thoughtful inquiry into Miller’s conduct vis-à-vis the boys. This failure appears to be due, in part, to Griffith’s and Hoffman’s lack of knowledge about the dynamics of educator sexual misconduct. [REDACTED]

For instance, literature from the relevant time period reflects that the following information was available regarding perpetrators of child sexual abuse: Teachers who sexually abuse their students are often judged to be among the best teachers in the school and are often very popular with students and parents; allegations of abuse are most likely to be made against staff who work with students in extracurricular activities such as sports or drama; perpetrators typically use “grooming” tactics to acclimate victims to the increasing crossing of boundaries and intimacy; and a sizeable number of perpetrators of child sexual abuse attempt their conduct with more than one victim. Literature from the relevant time also reflects that information was available regarding victims/survivors of educator sexual abuse. That information included that students who are victims /survivors of educator sexual misconduct—especially same-sex sexual misconduct—may be hesitant to disclose the abuse for fear of stigma and ostracization.

Griffith and Hoffman took at face value the other boys’ denial that their communications with Miller were sexual in nature. They did not notify the boys’ parents, seek to review for

themselves the messages Miller sent to the boys, or commence any meaningful investigation into Miller’s own admission that he engaged in “similar” messages with “at least” three boys. The District’s response, therefore, did not seem to take into account Miller’s popularity, his (as perceived by students) power in the theater community, the students’ possible fears of being blamed for engaging in sexual communications, or that it was a same-sex allegation. Nor did it seem to take into account Miller’s known tendency toward anger and how his angry outbursts might have discouraged the other boys to be candid about his conduct. A better response would have recognized that the boys may have needed more supports in place, including that of their parents, before they felt safe enough to disclose potentially inappropriate communications with a teacher of the same gender. Additionally, an informed and better response would have not stopped the inquiry with the boys’ denials, especially if ([REDACTED]) [REDACTED] Miller himself admitted that his correspondence with these boys was “similar” to his correspondence with the boy whose parents reported to the police. [REDACTED]

While Griffith and Hoffman were satisfied with Miller’s resignation as it accomplished the goal of removing him from the school community immediately and without bringing attention to any of the boys involved, their lack of action following his departure was a missed opportunity to effectively learn the extent of Miller’s alleged misconduct; to provide resources and support to the boys affected by Miller’s conduct; to examine the theater community—of which all the affected boys were members—for potentialities for risk reduction; to identify school policies, procedures, and practices that may have enabled Miller to engage in inappropriate sexual communications without detection by the school; or to implement changes based on lessons learned to prevent such inappropriate communications in the future. Indeed, there is no indication in the materials we reviewed to indicate the District evaluated its prevention programs, complaint reporting mechanisms, or investigative process following Miller’s disclosure that he engaged in “unprofessional” and/or “similar” communications with other boys.

[REDACTED], we did not find any evidence that this inadequacy led to any additional harm of any District community member by Miller. None of the sexual misconduct allegations about Miller involved conduct occurring after 2009. While Miller was in the audience for one theater production after 2009, only Hoffman described seeing him there, without incident. And, when Miller contemplated returning to campus some years following the end of his employment as part of an outside organization’s theater production, the District did not permit him to do so.

[REDACTED]

[REDACTED]

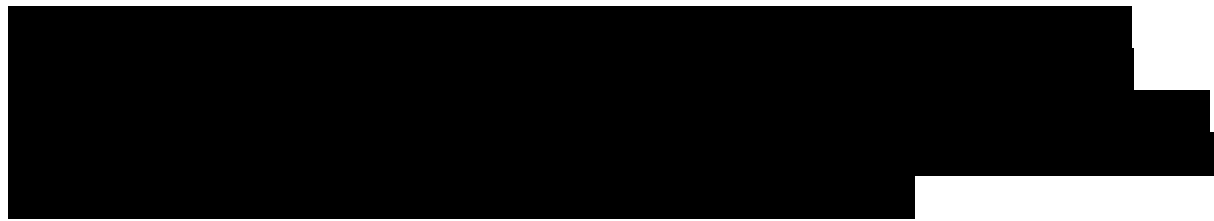
urveys of school administration policies, procedures, and practices during the relevant time period reflect that many schools were severely ill-equipped to deal with educator sexual misconduct, despite legal mandates. Some schools lacked district policies or procedures to guide their investigations, and few had policies that explicitly addressed allegations of sexual abuse by a staff member. Typical school practices did not focus sufficiently on helping the students, as superintendents were often torn between their duty to protect the students, their duty to protect teachers' jobs, and concern that allegations of abuse could tarnish a district's reputation. Literature from the relevant time period reflects that many superintendents lacked knowledge about what constituted abuse; lacked investigative skills; misunderstood the circumstances under which mandatory reporting was required; and failed to carry out formal investigations, choosing instead to permit teachers to resign quietly and avoid bringing attention to the situation.

[REDACTED]

¹⁴ See <https://www.chicagotribune.com/suburbs/lake-county-news-sun/ct-Ins-waukegan-lake-forest-theater-st-0709-20200709-grixvrkbijjqilu62yn5bxmrbm-story.html>.

[REDACTED]

¹⁶ One outstanding resource we consulted to assess current best practices is the September 2020 report from the Illinois Make Sexual and Severe Physical Abuse Fully Extinct (Make S.A.F.E.) Task Force, which was established pursuant to 105 ILCS 5/22-86, https://www.isbe.net/Documents_MSAFE/Make-SAFE-Final-Report-20200903.pdf, last accessed November 19, 2020.



IV. Review of Policies, Procedures, and Training

A. Policies and Procedures

The District has a number of policies and procedures relevant to conduct, including sexual harassment, by employees towards students. Section 5 of the Policy Manual sets out policies applicable to employees.¹⁷ This section of the report summarizes the relevant policies currently in place and, where applicable, references prior versions of relevant policies.

- 5:32 – Cooperation with Investigations, adopted June 2012 and requiring employees to cooperate in District investigations. There does not appear to have been a comparable previous policy.
- 5:90 – Abused and Neglected Child Reporting, adopted February 2020. “Any District employee who suspects or receives knowledge that a student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, shall” immediately report to DCFS. “Before beginning employment, [all employees shall] sign the *Acknowledgement of Mandated Reporter Status* form[.]” The Policy includes a reference to Policy 7:20, Harassment of Students Prohibited. The previous policy, in effect since at least 1999 (and perhaps as early as 1986), was Policy 5.120, which provided as follows: “A District employee who has reasonable cause to suspect that a student may be an abused or neglected child shall report such a case to the Illinois Department of Children and Family Services. The employee shall notify the Superintendent or Building Principal that a report has been made. Any employee hired after July 1, 1986, shall sign a statement to the effect that the employee has knowledge and understanding of the reporting requirements of the Act.”
- 5:120 – Employee Ethics; Conduct; and Conflict of Interest, adopted February 2020. “All District employees are expected to ... maintain professional and appropriate relationships with students, parents, staff members, and others. [...] Any employee who sexually harasses a student, willfully or negligently fails to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act (325 ILCS 5/), or otherwise violates an employee conduct standard will be

¹⁷ [Lake Forest Community High School District 115 Board of Education Policy Manual, Section 5 – Personnel](#), last accessed November 23, 2020.

subject to discipline up to and including dismissal.” There does not appear to have been a prior version.

- 5:125 – Social Media and Electronic Communication Policy, adopted March 2018. “[T]o ensure that electronic communications made by employees are appropriate and consistent with goals and policies of the District, and to protect the welfare of both employees and students[.]” Additional provisions:
 - “Employees are prohibited from using technology to communicate with a student for personal purposes...This prohibition includes communicating with students through electronic mail, personal messaging programs or text messaging, and ‘friending’ or ‘following’ students’ social media profiles for personal purposes.”
 - Discusses acceptable use – for educational and extra-curricular purposes and District business only.
 - Prohibits any use that violates any Board policy, including harassment.
 - Prohibits “Any transmission, access, creation, or transmission of material that is sexually graphic or explicit, obscene, threatening, intimidating, abusive, harassing, or otherwise indecent, or that reasonably could be interpreted as promoting illegal activity[.]” Employees are expected to use the District’s electronic resources to conduct District business, including only using District email accounts to conduct District business.
 - “Employees are prohibited from using technology to communicate with a student for personal purposes if they do not have a legitimate independent relationship with the student. Examples of a legitimate independent relationship include a familial relationship or pre-existing relationship through an outside organization such as a religious house of worship.”
 - Social media accounts must be created using the District-issued email account, and employee must notify District when they create one.
 - Appropriately references Policy 7:20, as sexual harassment can take place through electronic communication.
 - Employees may be subject to discipline for violations of the policy.
 - The closest previous policy, in effect since at least 1999, was 5.90, “Personnel: Staff Use of Technology”:
 - Does not address use of non-District technology.

- “Users may access [District] technology only for educational purposes.” [Not as explicit as current policy as to prohibition against communicating with students for personal reasons, but to the same end.]
- “The actions of users accessing networks through the School District reflect on the District; therefore, users must conduct themselves accordingly by exercising good judgment and complying with this policy, and any accompanying administrative regulations and guidelines.”
 - “Staff who use technology will not: 1. Use offensive, obscene, inflammatory or defamatory speech. ... 2. Harass other users. ... 5. Violate the rights of others, including their privacy. ... 6. Access, download, and/or create pornographic or obscene material. ... 7. Use the network for personal business or financial gain. ... 14. Use technology for illegal activities.”

Section 7 of the Policy Manual sets out policies applicable to students.¹⁸

- 7:20 – Harassment of Students Prohibited, adopted October 5, 2020:
 - Defines harassment as “verbal, physical, sexual, or visual [conduct] that affects the tangible benefits of education, that unreasonably interferes with a student’s educational performance, or that creates an intimidating, hostile, or offensive educational environment.” It goes on to give examples including name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of property.
 - Provides that students can report possible harassment to the District’s Nondiscrimination Coordinator (Rebecca Jenkins), the Building Principal, the Assistant Building Principal, the Dean of Students, a Complaint Manager (Jennifer Hermes, COO/CSBO; Jordan Salus, CTO), or any employee with whom the student is comfortable speaking, and that a student may choose to report to an employee of the same gender as the student.
 - Specifies that information about it will be included in the District’s student handbook, in employee handbook(s) “if applicable,”¹⁹ and on the District’s website.
 - Student Handbook: Part III of the 2020-2021 Student Handbook,²⁰ Student Conduct, mentions sexual harassment regarding student conduct on page

¹⁸ [Lake Forest Community High School District 115 Board of Education Policy Manual](#), last accessed November 23, 2020.

¹⁹ Per the District, there is no State requirement for an employee handbook and the District does not have one; rather, Board policies serve that function: “The rationale is that the Board Policies are the primary source and it complicates items to repeat the same information in an employee handbook.”

²⁰ <https://drive.google.com/file/d/16CtPNrWWXcQnk4KeIwnE58Ccpn04IH9m/view>, last accessed November 5, 2020.

sixteen and on page nineteen, with the latter referring to Policy 7:20; while this is in the section on student misconduct, the description includes harassment by employees. The description states that harassment should be reported immediately to the “Superintendent or designee(s), who shall be named annually by the Superintendent.” It also explains that substantiated charges against an employee will result in disciplinary action, e.g., warning, censure, suspension, or dismissal. It provides that “The Superintendent shall ensure that faculty, staff, and students are educated as to this policy on a regular basis.” Section V of the 2020-2021 Student Handbook is on the Technology Code of Conduct and references Policy 5:125, but primarily discusses use by students.

- District’s website: The website includes a section presenting the various policies mentioned above; it also includes in its Human Resources section a presentation given to employees in August 2020 on the new Title IX regulations.²¹
- Provides that any employee who receives a report or complaint must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager, and that an employee who fails to do so may be disciplined.
- Includes cross-references to policies 2:265, Title IX Sexual Harassment Grievance Procedure, and 2:260, Uniform Grievance Procedure, both adopted in October 2020 in response to OCR’s new regulations. It also refers to Policy 5:90, Abused and Neglected Child Reporting.
- Also provides for discipline of employees found to have violated the policy, up to and including discharge.
- Prohibits retaliation against any person for bringing complaints or providing information about harassment.

A previous version of the Policy, adopted in February of 2020, was substantially similar but did not require employees who received a report or complaint of possible harassment to report it or include information on how a complaint or report would be investigated.

The version in effect before that, since at least 1999, was “Policy 7.25: Sexual and Other Harassment”:

- “It shall be a violation of the Board of Education policy for an employee, student or any school visitor to harass a student based on race, color, religion, gender, national origin, age or disability or to engage in conduct which would contribute

²¹ <https://www.lakeforestschools.org/district-departments/human-resources>, last accessed November 5, 2020.

to such harassment.” However, the only specific circumstance of employee harassment of students addressed *quid pro quo* harassment, where “submission ... is made ... a term or condition of the receipt of educational or other school-related benefits” and “submission to or rejection of such conduct by an individual is used as the basis for educational or other school-related decisions.” Many of the examples in the policy, while not explicitly limited to student-on-student conduct, seemed geared to that (e.g., name calling, jokes, spreading of rumors).

- Provided for discipline of employees who violate the Policy.
- Students were “invited to discuss [their] concerns with one of the Advisor Chairs or with the Dean.”
- Like the February 2020 version, it provided that complaints will be investigated, but did not describe how.

B. Education and Training

1. Training for Employees

The District provided virtual training for all employees at the beginning of the 2020-2021 school year on “Mandated Reporting, Boundaries, and Mitigating Risk.” The training discussed mandatory reporting of suspected abuse of minors to DCFS, including how to recognize and respond to possible abuse and neglect (including sexual abuse such as sexual penetration, sexual molestation, and sexual exploitation), with Policy 5:90 requiring employees to sign a form indicating that they understand their reporting responsibilities. It also included a section on student and employee boundaries, including online behavior (maintaining professional boundaries, reading and understanding District policies, and only using District-provided or supported technology. The training addressed grooming behavior, including at school and off-hours and through social media. Out of 22 slides, two specifically covered sexual harassment of students, addressing *quid pro quo* harassment, harassment that creates a hostile environment, sexual assault, dating violence, domestic violence, and stalking (many of which would have applied to Miller’s reported conduct). The training also included examples of ways to avoid risky behaviors and the appearance of impropriety, including not becoming too involved with students’ personal lives.

For the past nine years, the District has required employees to take online training on workplace harassment developed by an external service, the Global Compliance Network. This training is required by the State every other year, but the District requires it annually. The District tracks participation, with follow-up emails reminding employees of the requirement; while there are no clear consequences for not participating (other than notifying the employee’s supervisor), only two employees failed to complete the training for the 2019-2020 school year – a completion rate of 99.3%. The training is being revised to include a quiz and a certification requirement indicating that participant understood and will follow State law and District policy.

While Policy 5:90, Abused and Neglected Child Reporting, requires employees to sign a form indicating they understand their reporting responsibilities, there is no similar requirement in Policy 5:125 or Policy 7:20.

The District has provided training for employees on Policy 5:125 at the beginning of each school year for the past several years, and Jordan Salus reinforces that training by periodically sending out versions of the policy annotated to emphasize particular issues – perhaps explaining the familiarity of many of the employees interviewed, as discussed in sections below, with the provisions of that policy. While the District provided training at the beginning of the 2020-2021 school year for the first time on sexual harassment under the version of Policy 7:20 in effect at the time, many of the employees interviewed did not recall it or its provisions until reminded by the interviewer (although they did remember the online training on workplace harassment, showing the importance of annual training). For example, the training included a reminder to report sexual harassment to the Title IX Coordinator, but most of the employees interviewed (including some of the administrators) did not know who held this position.

2. Training for Administrators

District administrators²² participated in online training at the beginning of the 2020-2021 school year on the new Title IX regulations, as to both students and employees. The District indicated that, as a result of the new regulations and the training, the District is considering changing who might be the Nondiscrimination Coordinator (currently Rebecca Jenkins) and the Complaint Managers (currently Jordan Salus and Jennifer Hermes).

3. Training for Students

Ninth grade students receive training on student-on-student sexual harassment as part of the wellness curriculum. This training does not address sexual conduct by employees towards students.

4. Additional Prevention and Response Efforts

a. Messaging

The employees interviewed were generally more aware of the District's policies and procedures regarding appropriate use of technology than they were of those regarding sexual harassment. This may be because they have received training on it for the past several years. As noted above, Jordan Salus, the Chief Technology Officer, periodically sends out annotated copies of the use of technology policy to all employees, highlighting and providing specific information on particular sections. For example, in one transmission, Salus highlighted the phrase "to protect the welfare

²² Including the Superintendent, Deputy Superintendent, Chief Operating Officer/CSBO, Chief Communications Officer, Director of Teaching and Learning, Director of Innovation, Director of Human Resources, Principal, Assistant Principals, Activities Director, Athletic Director, Deans, Instructional Directors, Director of Buildings and Grounds, Chief Technology Officer, Executive Director of Student Services, Director of Student Services and School Improvement, Assistant Athletic Director, and Assistant Director of Special Education.

of both employees and students” as the crux of the policy. He emphasized those portions of the policy that showed that the primary reason for the District’s computer and network infrastructure is to serve students’ educational needs and that the policy applies on and off District property. He also highlighted other District policies that could also apply to use of technology (such as Policy 7:20). In particular, the sections of the policy prohibiting employees from using technology to communicate with a student for personal purposes and from using personal email or social media accounts are highlighted.

Students are provided information about sexual misconduct in the Student Handbook and about the Confidential Reporting Tool through, e.g., posters in the school, periodic announcements in the “Friday Message for Students,” and in the LFHS Announcements System distributed through Schoology.²³ However, only the Student Handbook specifically addresses misconduct by employees. The Student Assistance Programs webpage (but not the Student Handbook) provides a number of links to external resources for sexual assault and domestic violence.²⁴

b. Reporting

The vast majority of those interviewed were familiar with the District’s Confidential Reporting Tool, which is available on the District’s website²⁵ and in the District-provided Chromebooks. However there was some confusion (particularly amongst the students) as to whether the reporting system was confidential or anonymous, even though the website says that students are not required to provide their names in order to make a report, with several students saying that the common belief is that reports are traceable back to the reporting student. There was also some confusion as to whether the system can be used to report inappropriate conduct by teachers; the examples given on the website seem to relate more to conduct by other students, e.g., “bullying/harassment” and “sexting,” although there is an open-ended “other issues affecting LFHS students.” A number of employees interviewed seemed to conflate the Confidential Reporting Tool, a District resource, with Text-a-Tip, an outside counseling service focused on mental health.²⁶

c. Findings

The current policies and procedures, and particularly Policies 5:125, Social Media and Electronic Communication (adopted in 2018, before many of the concerns that led to this review arose) and 7:20, Sexual Harassment of Students, address much of the reported conduct that led to this review. This includes use of personal text messaging and email platforms, inappropriate

²³ E.g., the LFHS Announcements for August 29, 2019, included: “Safety is a top priority at Lake Forest High School. The Confidential Reporting Tool (CRT) is an internal notification system designed to inform school officials about potential threats to safety and security at LFHS. Students can access this resource on their Chromebooks, or in the Student Portal of the LFHS Homepage.”

²⁴ <https://www.lakeforestschools.org/schools/lfhs/student-services/student-assistance-programs>, last accessed November 6, 2020.

²⁵ <https://www.lakeforestschools.org/student>, last accessed November 6, 2020.

²⁶ <https://www.golead.co/text-a-tip/>, last accessed November 6, 2020.

physical contact (including conduct clearly of a sexual nature), grooming behavior, asking students about their dating and sexual activities, and meeting with students alone both on and off campus. Policy 7:20 has been revised to specifically require employees to notify the Complaint Managers or Nondiscrimination Coordinator should they receive a report or complaint. Students have a number of options for reporting possible misconduct. Much of this information is reinforced through training for employees and messaging to employees and students. We conclude that the District's policies and procedures are thorough and in need of only minor revisions. The District's training and messaging are adequate but have room for improvement, particularly regarding training for students. Our suggestions for revisions and improvement in the District's policies and training programs are included in the recommendations section of this report.

V. Current Climate

To gather information about the current climate in the District, we interviewed a total of 27 employees, students, recent graduates, and parent leaders and asked a variety of questions about the District's prevention of and response to educator sexual misconduct. This included questions about the District's policies and procedures, whether and to whom they would report possible sexual misconduct, what the District might do in response to reports of sexual misconduct, and suggestions for improvement. We followed up these in-depth individual interviews with two online District-wide confidential surveys, one for all students and one for all employees.

A. Employee Interviews

Most of the employees interviewed were not aware of the specific policies dealing with interactions between staff and students (e.g., one administrator said that they would "assume that there are policies on professional conduct"; another administrator knew that the District had such policies in place and did not know the specifics, but was "sure they are in writing somewhere"). While some were generally familiar with Policy 5:125, very few were aware of Policy 7:20. However, perhaps more importantly, they all expressed an accurate understanding of the general requirements and expectations regarding behaviors governed by these policies and believed their peers did so, as well; indeed, a number of those interviewed said that this was due at least in part to the recent disclosures that led to this review.

Those shared understandings and expectations included the following: no personal relationships unless based on family or other external connections; only communicating with students through the use of District platforms such as Schoology and Remind (a text service) that can be monitored by the District for communications with both individual and groups of students; only communicating with students about school-related matters or issues that could be interfering with their schoolwork or extracurricular activities; no interactions through social media unless

approved by the District²⁷; only meeting with students in open areas or where others can observe the interaction; not driving students in an employee's personal vehicle; not meeting with students off campus unless part of a school-related activity; not discussing the employee's personal life with students; limiting discussion of a student's personal concerns to school hours and notifying a District social worker; and minimizing physical contact. The employees indicated that their understanding came from training and experience at other school districts where they had worked, "common sense" (a frequent comment, also phrased as "just knowing what's right and what's wrong"), training by the District, and guidance from their supervisors. For example, Ashleigh Malec, Director of Student Activities, advises new theater personnel that it would not be appropriate to meet with a student in a closed-door situation, but to meet instead in a public setting like the library; Mike Mizwicki, the Instructional Director for Wellness, discusses the rules specific to his department with new hires. While these shared understandings and expectations can go a long way to preventing employee misconduct, if they are not grounded in official District policies there could be inconsistent responses in some cases.

Many of the employees interviewed believed that the students with whom they interacted would report concerns of possible sexual misconduct to them. They all indicated that they would report possible inappropriate misconduct, including towards minors, although they differed as to who they would report to. Some suggested that they would report to the following: the Principal, the Director of Safety and Security, the Dean, an Instructional Director, a supervisor, a District social worker (who might then contact DCFS with them for situations involving a minor),²⁸ and/or the school resource officer (particularly if the student was a minor; the resource officer could then advise as to whether DCFS should be contacted). The thinking underlying many of these suggestions was that all of the above are employees who could elevate the matter to an individual who could get the information to the responsible officials. Indeed, Principal Holland stated that she would refer complaints and reports to Jenkins, the Nondiscrimination Coordinator, for investigation. In this regard, many of the interviews were conducted before Policy 7:20 was revised in October 2020 (which instructs employees to report matters to the Nondiscrimination Coordinator or a Complaint Manager), and others were conducted soon afterwards. The February 2020 version of Policy 7:20 did not specify to whom employees should report, although the training for all employees at the beginning of the school year instructed them to report to the Title IX Coordinator. Despite this, many employees (including many administrators and supervisors) were not aware of this, or even of who held the positions of Coordinator and Complaint Manager or that one position or the other were even involved in matters regarding harassment or employee-student interactions.

²⁷ Several possible exceptions to this, raised not by the employees but by students, were social media accounts created by teachers to highlight their activities related to teaching or their pets. A number of students indicated that they followed their teachers on these accounts, but that the communication was "one way," i.e., the teachers did not respond to any comments that the students might make.

²⁸ More than one employee noted that the District is fortunate to have more counselors or social workers than in other districts where the employee worked, and that employees were inclined to use them as a resource.

According to Principal Holland, and as expressed in Policy 7:20, individuals with concerns about possible sexual misconduct can contact her, any instructional director, or any administrator. While the District notifies parents through email and other communications to the students' homes of who to contact for specific concerns (academic, extracurricular, etc.) students and parents often contact her, because they might not know where else to go or are looking to elevate the issue.

A number of longer-term employees stated that, under previous administrations, there had been a culture of sweeping things that could bring negative publicity under the rug but that this was not true under the current Superintendent, who they felt wanted to solve problems. More recent employees echoed this, saying that they thought the District was sincere about addressing concerns of possible employee misconduct and that it took the time and resources necessary to do so. In support of this, several discussed relatively recent situations in which they reported concerns to school administration, and several administrators discussed (often the same) situations in which they learned of concerns. For example, an administrator learned that an employee used their personal email in certain correspondence with students. When the emails continued even after the administrator spoke with the employee, the employee's job duties were changed.

Employees interviewed mentioned several relatively recent situations, in which employees (and others) reported concerns about possible inappropriate conduct to the school administration. The employees believed that the administration responded promptly by investigating the matter and taking steps to prevent further possible misconduct.²⁹ None involved a formal complaint. One matter came to the District's attention through a former student regarding communications between the teacher and other former students. The District's senior leadership met to discuss the situation and to learn about the nature of the issue, and the teacher was placed on leave. Consistent with her responsibilities as Director of Human Resources and the Nondiscrimination Coordinator, Rebecca Jenkins took the lead in gathering information. The District created an email address for students, parents, and community members to use if they had information or questions about the situation. While Policy 5:125 does not directly address communication with former students, there is a paragraph regarding communications with other members of the District community (which would include former students) that provides that, if the communication gets in the way of the employee's job, the District could take action. The employee recently resigned.

Two other recent situations involved a teacher who had previously been a student in the District. The teacher left after being with the District for less than a year. While he was employed, information surfaced that the teacher had been seen off campus on at least one occasion with a

²⁹ These incidents were also mentioned by the parent leaders who were interviewed as well as several of the students. The parents also thought that the situations were handled appropriately, while several of the students thought the District took too long to respond and/or should have informed at least the students involved of the outcomes.

current student and former students. It was not clear from our interviews whether the District learned of this while the teacher was still employed, but Lane Linder, the Director of Safety and Security spoke with the current student and determined that nothing inappropriate had occurred. After the employee left, additional concerns arose regarding his staying in touch with students with whom he had worked, including at after-hours school events. This situation was handled by Ashleigh Malec, Director of Student Activities. Malec spoke with the former employee about meeting with students on school property. She contacted students and their parents to keep them informed and to find out whether anything inappropriate had happened while he was employed. Some concerns were reported, but none that rose to the level of a violation of District policy. Since there was no complaint of any violation of District policies when he was employed, the District did not inform the community about the outcome of the matter.

B. Student Interviews

None of the students or recent graduates interviewed were aware of the District's policies on professional conduct towards students and sexual harassment of students by employees. One student stated that there is some information in the Student Handbook, but that no effort is made to encourage students to read it or be familiar with it. However, like many of the employees, the students had a general or "common sense" understanding of appropriate boundaries—what "felt normal"—that was very similar to (although less detailed than) the employees' understanding and believed that their friends and teachers did, as well. One fundamental area of difference with employees was that several students seemed to think that conduct would be inappropriate only if it was criminal in nature, which raises the possibility that they might not recognize and report less serious, but nevertheless inappropriate, conduct. Another difference for some students was that they did not understand the District's general prohibition against teachers using their personal email accounts or telephone numbers, with some thinking this might be appropriate at least to facilitate distance learning. Some students expressed uncertainty as to whether employees could use social media to support students. Finally, one student mentioned that several of her friends will meet with certain female teachers in a coffee shop after the students were no longer in the teacher's class in order to continue their friendly relationship.

All of the students stated that they would report concerns about possible misconduct by employees directed towards them or their friends, most likely to their parents (who they believed would contact the District), the Principal, the Dean, a District counselor or social worker, and/or a friend. Some students said that they would report possible misconduct to a trusted teacher, while others thought that might be awkward. One or two students thought that some of their friends would be reluctant to report to anyone in the District because they would not want to be seen as a victim or "tattle-tale." Most of the students were aware of the Confidential Reporting Tool and thought it might be useful for students with reservations about reporting.

Several students stated that their willingness to report was not due to information from the school but from what they have learned from their parents. For example, one stated that she does not

think the District teaches that it is okay to speak up about these matters. Indeed, while the students indicated that they would report concerns, several believed nevertheless that there is a “sweep-this-under-the-rug” culture in the District; two students referred to this as an “image” problem. When asked for the basis of this belief, they pointed to alleged incidents at schools in other districts and/or to the incidents that led to this review. Yet even the students who stated that there was this culture in the District stated that they believed the counselors and administration would take reports seriously, and the District would investigate the concerns in an appropriate and confidential manner; other students did not know how the District would handle reports that it did receive.

Many students said their teachers would report any possible misconduct of which they (the teachers) learned and that their teachers would act as the student’s advocate. Other students were not so sure that teachers would report misconduct by another teacher, and they said that it would be reassuring to know that teachers were required to do so.

Our interviews with students suggest that another possible disincentive to reporting could be how the District responds to a student’s report. For example, according to several students, when a student reports possible misconduct, the District should not respond in a way that gives the student the impression that the District thinks they are over-reacting or over-dramatizing, or wait to respond until there is a second or third report. One student described a situation a few years ago when a few seniors reported that a teacher was texting them inappropriately, yet it took the school a week or two to respond.

One student said that the coach of one of the sports teams treats the players harshly. Several of the players reported this to the District’s social workers, yet the coach’s behavior has not changed. While the coach’s alleged conduct is not of a sexual nature, the student suggested that if students see that there are not consequences for that kind of conduct, students would be less likely to report inappropriate conduct of a sexual nature.

Students generally saw their teachers and District social workers as supporters and advocates; indeed, several recent graduates explained that, once they graduated, they continued to be in touch with certain of their teachers who had been particularly supportive. Quite a few related instances in which a teacher or counselor helped them deal with difficult academic or even personal situations in a professional but supportive manner. While the students understood the need for professional boundaries, they did not want those boundaries to interfere with the development of positive relationships with their teachers. For instance, they all thought it would be appropriate for a teacher to talk with a student if the teacher believed the student was experiencing personal issues that affected their schoolwork. Some suggested that it would be best if the student approached the teacher. However, if a teacher noted changes in a student’s behavior or otherwise suspected some concern, many students thought it would be appropriate for the teacher to ask the student how the student was doing. Some suggested this should be done through an email message, to give the student the opportunity to not respond; others

thought it should be done in person, in a setting that provided the student with some privacy while at the same time allowed for observation by others. The students said that there are rooms in the building (including many of the classrooms) where a student and a teacher can have a private conversation with the security of having others around. They expressed that this should not be an in-depth conversation, but simply one to find out if the student needed help. The students told us that, based on a student's response to the teacher's outreach, they anticipated that the teacher might contact the student's parents and/or the District's social workers.

Some students raised concerns about what they believed to be the lack of transparency once a complaint or report is made. Several thought it was important that at least the individual who was subjected to the alleged misconduct be kept informed of the status of the investigation and its outcome; others thought that the outcome should be disclosed to the entire school community in order to reassure students and parents of the District's concern for student safety. Several expressed concern about possible situations in which a teacher accused of misconduct "disappears," with no explanation to the community as to whether the employee was found to have engaged in the misconduct and dismissed, whether the employee resigned because of the allegations, or whether the teacher left for other reasons. Students noted that this could lead to rumors and concerns that the teacher might not have been held accountable.

Again, while students expressed a general understanding of the appropriate boundaries between employees and students, many were not clear on the specific parameters. This could lead to some students not recognizing conduct that actually is prohibited by District policy and therefore not reporting it. The District has long provided its ninth-grade students a module on sexual harassment as part of the wellness curriculum; however, this training is limited to student-on-student harassment. Those interviewed were almost uniform in their view that the wellness curriculum's module on sexual harassment should be expanded to include age-appropriate information on appropriate employee-student boundaries, ideally through both large and small gatherings with opportunity for discussion in the latter. Additionally, they felt that the information should be reinforced throughout the students' time in the District through additional discussions (e.g., during the required quarterly lunch with guidance counselors), messaging through social media, and including information about inappropriate use of technology by employees in the pamphlet given to students each year on the rules and expectations for student use. One student suggested that formal/classroom instruction on the issue would not be successful at the high school level: "the more things are regulated, the less students are likely to take things seriously." This student suggested that the District should work with the feeder schools to begin to educate students in those grades about appropriate boundaries. However, other students thought some method of incorporating information about sexual misconduct by students and employees into the curriculum throughout high school could be helpful: "sometimes you have to do things that might look silly to students at the time, but they could be helpful in the long run."

C. Parent Leader Interviews

Several of the parent leaders we interviewed were not familiar with the District's policies on employee use of technology and sexual harassment, even though the District had apparently sent information about the policy home this past summer. One said that she read Policy 5:125 after the information came out about one of the situations described in the Employee Interviews section above. Nevertheless, the parent leaders interviewed had a similar "common sense" understanding of appropriate boundaries and impermissible conduct as the employees and students, and they believed that at least some other parents did as well. One noted that parents want teachers to be caring, but that there is a fine line between what is appropriate and what is not.

All parent leaders interviewed indicated that they would report possible sexual misconduct. One indicated that they would report it to the Principal; another would contact one of the District's social workers; another would contact the Principal if the employee involved was a teacher or the athletics director if it was a coach, but was not sure who they would contact if the situation involved the band, music, or orchestra (though they would assume that the parent of the student involved would know). Indeed, several had learned of social media posts involving the teacher in one of the situations described above and had forwarded them to Principal Holland – along with a number of other parents. None knew who the District's Nondiscrimination Coordinator is, or even that the District had one. At least one acknowledged that some parents might not report possible sexual misconduct out of concern for their reputation in the community, while others might discuss concerns with other parents without informing the District; another said that some parents might not report out of concern for the privacy of their child. One parent thought there was a way for parents to report anonymously through the District's webpage. When told that the Confidential Reporting Tool was only available to students and was confidential (and not anonymous), this parent thought it should be available to parents and that it should be anonymous, although they acknowledged it could result in false or malicious reports. Another parent knew the Tool was only available to students, but was not sure if it could be used to report misconduct by employees.

None of the parents were clear as to what the District's procedures are after receiving a report of sexual misconduct. However, with some referring to the recent incidents described above, they all believed that, once the current administration learned of possible misconduct, it responded or would respond appropriately. However, they acknowledged that there were many in the community who did not share this view. Several felt that the parent of a student involved in an incident or report should be notified of the outcome, but did not feel it should be public knowledge unless the teacher was convicted of criminal conduct.

The parents all agreed that the District should provide more information about its policies and procedures, including reporting options. However, the parents differed in how—and how frequently—this information should be disseminated. One suggested that it would be enough to

include the information in a Board report as part of or in response to this review; they felt that repeating the information annually would “just stir the pot.” Others suggested that this information should be shared on the District’s website and through electronic messages sent to parents and guardians (e.g., through “Constant Contact”) and announcements in local media, and that this should be done periodically.

D. Student Survey

Of the District’s approximate 1550 students, 169 answered at least some of the questions. For most items, students were asked to respond on a Likert scale using the following: strongly agree, agree, neutral, disagree, and strongly disagree. For purposes of the percentages below, we have combined strongly agree and agree, and combined strongly disagree and disagree. We note a number of areas in which the responses differ based on the gender of the respondents.

A majority of students who responded feel that faculty, staff, and administrators are concerned about their welfare, with 70% agreeing and 9% disagreeing.³⁰ Similarly, 80% of students who responded feel safe at the school, with 9% not feeling the same way. A majority of students also feel there is a good support system for students going through difficult times, with 73% agreeing and 9% disagreeing or strongly disagreeing. A smaller majority of students (42%) believe that that school officials take their concerns seriously, with 35% saying that they sometimes think school officials will not do so. Survey responses indicated that a higher percentage of female survey respondents (31%) than male respondents (21%) sometimes think that school officials might not take their concerns seriously.³¹

Nevertheless, 61% of students feel there are school officials in whom they could confide about a concern for their well-being, while 19% do not. About 72% indicated that they would report a concern to a guidance counselor, more than two-thirds to a school social worker or teacher, more than half to the Principal and the Dean of Students, 44% to a coach, 41% to a club advisor or sponsor, 36% to a school resource officer, 44% to the local police, and fully 85% to a parent or a friend.

Eighty percent of students believe that there is a clear sense of appropriate and inappropriate boundaries between teachers and students, with 10% of students disagreeing; 72% of female respondents feel there was a clear sense of boundaries (with 19% disagreeing) as compared to 95% of male respondents (with none disagreeing). The majority sentiment was somewhat confirmed by the questions in the survey about a variety of possible employee behaviors. For example, 96% of students are comfortable receiving a school-related email from an employee,

³⁰ For each item, the remaining percentages up to 100% were students who were neutral, i.e., who expressed no opinion.

³¹ These percentages together are less than the 35% total for all respondents because a number of students did not indicate their gender. The 35% figure is based on all 104 responses to this question (with 36 indicating that they sometimes think that officials might not take their concerns seriously), whereas only 42 respondents identified as female (with 13 indicating this) and only 19 students identified as male (with 4, or 21% indicating that this). This is true for many of the other items.

and 67% are comfortable receiving a text message about school-related content. A majority of students are comfortable meeting alone with a teacher on school property during school hours (82%) and after school hours (65%). Eighty-seven percent would be uncomfortable about an employee asking them about personal subjects such as dating relationships and sexual activity (with 2.9% indicating that they would be slightly comfortable with this, and none indicating that they would be very comfortable). Ninety percent would be uncomfortable with an employee's request to keep information from their parents. Finally, 84% of students would be uncomfortable going to an employee's home (with only 1.47% being comfortable doing so).

On the other hand, 33% of students would be comfortable receiving an email from an employee from a non-school email account and 18% would be comfortable receiving social media attention from an employee, both of which would be prohibited by Policy 5:125. As to the latter, the percentages for male and female respondents is similar; however, more female respondents (64%) said that they would be uncomfortable with such attention than male respondents (47%). Similarly, 12% of students would be comfortable meeting alone with an employee off school property; while these percentages were similar for male and female respondents, 69% of female respondents indicated that they would be uncomfortable doing so as compared to 58% of male respondents. Four percent of students would be very or slightly comfortable with an employee's request to keep information from their parents. While these students are in the minority, a student's acceptance of these types of conduct could facilitate an employee "crossing the line."

Fifty-eight percent of the students believe that the school is doing a good job of educating students about boundaries (while 26% disagree with this). While the school offers no systematic training or education on this, 31% of students say they have received such education/training and 36% say that they have received education/training on reporting. Survey responses regarding education/training on reporting reveal a gender difference; twenty-eight per cent of female respondents say they had received such training and 59% said they had not as compared to 47% of male respondents saying they had received training on reporting and 37% said they had not). However, 43% of all respondents indicated that they understand how to report sexual misconduct, and 53% indicated that they know where to get help. Survey responses regarding knowing where to get help reveal a gender difference; sixty per cent of female respondents indicated that they knew how to get help and 17% did not, as compared to 42% of male respondents indicating that they did and 42% indicating that they did not.

Fifty-nine percent of the respondents believe that the school has policies to address boundaries and appropriate relationships (with 10% disagreeing); fifty-five per cent of female respondents feel this way (with 14% disagreeing) and 74% of male respondents feel this way (with 5% disagreeing), only 33% of all respondents are aware of the procedures for dealing with reports of inappropriate conduct and 52% not being aware.

Survey responses regarding students' expectations regarding the administration's response to a report of sexual misconduct were largely positive. While 67% of students feel school officials

handle incidents in a fair and responsible manner (with 13% disagreeing), 85% believe administrators would take a report seriously (with 7% disagreeing). While only 22% indicate they understand the procedures for addressing complaints, 65% have confidence the school will follow the procedures necessary to address complaints appropriately. Seventy-seven percent believe administrators would protect a reporting person's privacy and 73% believe administrators would take corrective action.

Twelve percent of respondents believe administrators would retaliate against the reporting person, whereas 70% do not feel this way. For female respondents, 7% think administrators would retaliate and 71% do not, as compared to 26% of males who expect retaliation and 63% who do not. Sixty-six percent of all survey respondents believe administrators would take steps to protect the reporting person from retaliation. Only 22% of all respondents believe that staff or students would consider the reporter to be a troublemaker (with 42% disagreeing); 26% of female students feel this way (with 40% disagreeing), while none of the men do (and 53% disagree). To the contrary, 78% believe that staff or students would support the reporter (with only 4% disagreeing). Seventy-four percent believe that a teacher who engaged in inappropriate conduct would face consequences, with 13% disagreeing.

Despite the show of trust in the administration's response, discussed above, a meaningful minority of the students expressed some concern in the District's priorities. A third of students believe that school officials are more interested in protecting the school's reputation than in protecting students, with 41% disagreeing with this; and 27% believe that school officials are more interested in protecting teachers' jobs than students' well-being, with 46% disagreeing. Despite this, only 16% of students believe that administrators would sweep the matter under the rug, with 54% disagreeing. While 13% think that administrators would retaliate against the reporter (with 70% disagreeing), even fewer (8%) believe that administrators would blame the reporter (with 76% disagreeing).

The survey identified a number of personal factors and asked whether each factor would possibly influence the student's decision to report inappropriate employee conduct. Those factors include the following: year in school, race/ethnicity, gender, sexual orientation,³² the gender of the person to whom the student would report, and the gender of the employee who engaged in the inappropriate misconduct. For each factor, three-quarters or more of the students responding indicated that the factor would not affect their decision to report. However, 54% of female survey respondents indicated that their gender would not affect their decision to report as compared to 72% of male respondents. In addition, 20% of female respondents indicated that their gender would make it *more likely* that they would report, while no male students indicated

³² In many schools, LGBTQ+ students are particularly vulnerable to harassment. Only seven respondents self-identified as lesbian, gay, or bisexual; this makes it difficult to draw meaningful conclusions as to the possible impact this might have on their experiences. One aspect to note, though, is that 57% of these seven students said that their sexual orientation would make it less likely that they would report and 43% said it would not affect their decision to report, as compared to 5% and 93%, respectively, for students self-identifying as heterosexual.

this. Similarly, 61% of female respondents indicated that being the same gender as the person to whom they would report would not affect their decision to report with 24% saying that it would make them *more likely* to report, as compared to 72% and 17% of male respondents, respectively.

The survey results indicate that students generally feel safe at the school, they understand the appropriate boundaries between teachers and students, and, despite some students' reservations about the District's concern for their well-being, a majority would report any concerns they might have. These conclusions do not diminish the percentage of students who do not feel safe or who do not feel that school officials would respond to reports fairly and responsibly. However, it is important to recognize some limitations about the survey results. The low response rate (11%, with a number of those responding not answering all the questions) suggests caution in generalizing the results to the entire student population.

E. Employee Survey

Of the District's 300+ employees, 74 responded. For most items, as with the student survey, employees were asked to respond on a Likert scale using the following: strongly agree, agree, neutral, disagree, and strongly disagree. For purposes of the percentages below, we have combined strongly agree and agree, and combined strongly disagree and disagree. There were no meaningful differences in employee responses based on gender.

Perhaps not surprisingly, employees responding to the survey felt more strongly than students that faculty, staff, and administrators are concerned about students' welfare, with 92% of employees agreeing (as compared to 70% for students) and none disagreeing.³³ Yet only 51% believe that school officials take concerns raised by students seriously (with 14% saying that school officials might not always do so), and only 37% believe that school officials take employee concerns about student welfare seriously (with 33% believing that school officials do not).

Eighty percent of employees believe that there is a clear sense of appropriate and inappropriate boundaries between teachers and students (the same percentage as students), with 4% disagreeing. This was somewhat confirmed by the questions in the survey about a variety of possible employee behaviors. For example, 85% are comfortable with school-related emails to students related to school work (compared to 96% for students), and 30% are comfortable with text messages about school-related content (compared to 67% for students). Ninety-three percent of employees would not be comfortable sending an email to a student from a non-school email account (as compared to the 33% of students who would be comfortable receiving such messages). Ninety-seven percent of employees would be uncomfortable giving social media attention to a student (compared to 18% of students who would be comfortable receiving such

³³ For each item, the remaining percentages up to 100% were employees who were neutral, i.e., who expressed no opinion.

attention). Fifty percent of employees are comfortable meeting alone with a student on school property during school hours (as compared to 82% of students) and 37% after school hours (compared with 65% for students). Ninety-two percent would be uncomfortable meeting alone with a student off school property (while 12% of students would be comfortable doing so). Ninety-two percent would be uncomfortable asking a student about personal subjects such as dating relationships and sexual activity. Ninety-five percent would be uncomfortable asking a student to keep information from their parents. Finally, 95% of employees would be uncomfortable meeting with a student at the employee's home.

When it comes to educating and informing the Lake Forest community, survey responses indicated that employees believe there is some room for improvement. Thirty-six percent of the employees believe that the school is doing a good job of educating students about boundaries (while 24% disagree with this). Seventy-two percent believe that the school is doing a good job educating employees about boundaries (with only 9% disagreeing). While 67% believe that the school has policies to address boundaries and appropriate relationships (with 12% disagreeing), only 44% say they are aware of the procedures for dealing with reports of inappropriate conduct and 29% not being aware. Seventy-three percent indicated that they had received education or training on boundaries and appropriate relationships, 53% indicated that they had received education or training on how to report, and 63% indicated that they understood how to report. In theory, these figures should be close to 100% given the training provided to employees at the beginning of the school year.

Employee responses reflected some concerns about the District's fairness when it comes to responding to reports of sexual misconduct. While 67% of students feel that school officials handle incidents in a fair and responsible manner, only 48% of employees do (with 26% disagreeing); yet 89% believe that administrators would take a report seriously (with 8% disagreeing), which is comparable to the 85% figure for students. While only 39% indicate that they understand the procedures for addressing complaints, 59% have confidence that the school will follow the procedures necessary to address complaints fairly. Ninety-one percent believe that administrators would protect the privacy of the student involved, while only 52% believe that administrators would protect an employee's privacy (it is not clear if this was in reference to the privacy of a reporting employee or of an accused employee). Ninety-four percent believe that administrators would take steps to protect the safety of the student involved (with only 2% disagreeing), and 84% believe that employees would support the student involved (with none disagreeing). In addition, 73% believe that administrators would take corrective action (the same percentage as students responding to the survey), but only 40% believe that administrators would take steps to protect a reporting employee from retaliation (yet only 28% indicated that they would be fearful of retaliation from the administration or other employees, as compared to 13% of students). Only 25% believe that administrators or other employees would consider the reporter to be a troublemaker (with 48% disagreeing). Eighty percent believe that a teacher who engaged in inappropriate conduct would face consequences, with 8% disagreeing.

A meaningful minority of employee respondents also expressed some lack of trust in the District's motives when it comes to handling reports of sexual misconduct. Thirty-nine percent of employees responded that school officials are more interested in protecting the school's reputation than in protecting students (similar to the 33% figure for student), with 27% disagreeing; not surprisingly, only 1% of the employees believe that school officials are more interested in protecting teachers' jobs than students' well-being, as compared with 27% of the student respondents. Despite this, only 21% of employees believe that administrators would sweep the matter under the rug, with 55% disagreeing.

The survey identified a number of ways in which an employee could learn of possible sexual misconduct, and asked how the manner of learning about possible sexual misconduct might impact their decision of whether to report the matter. For example, if an employee heard the information from a student who was not involved in the alleged misconduct, 95% indicated that it would either not affect their decision to report or make it more likely that they would do so; the result was similar if they heard the information from another employee. If the employee thought that someone else had already reported the matter or was going to do so, 85% percent said that they would still report it. If the employee suspected that the information about the alleged conduct was not true, 36% said that it would make them less likely to report; however, all employees indicated that they would report rumors or other indirect information if they had been trained to do so. Fully 89% of the employees indicated that they would still report if they were close friends with the accused employee (meaning, however, that this would make 11% less likely to report). Sixty percent of employees indicated that they would be more likely to report if they knew the administration would handle the matter fairly, and 58% indicated they would be more likely to report if they understood the District's process for investigating reports (with only 39% indicating that they did so). Fifty-seven percent of employees indicated that they would be more likely to report if they could do so anonymously.

The survey results generally indicate that employees take inappropriate conduct towards students seriously, understand the appropriate boundaries between teachers and students, and, despite reservations by a sizeable number about the District's commitment to prevention and response, would likely report it (at least if they knew how, as 63% of employees indicated that they did not). As one caution, the small sample size (74 employees responded, with some not answering all the questions) may make it difficult to draw certain conclusions. For instance, while 3% of employees indicated that they would be very comfortable asking a student to keep information from the student's parents, that represents only two employees.

F. Current Climate: Findings

All those interviewed had a general or "common sense" understanding of the requirements for, and the District's expectations of, employee interactions with students, both electronically and in person, but often this understanding was not grounded in the specifics of the District's policies and training. This finding was reinforced by the survey results, which indicated that sizeable

percentages of students would accept certain types of employee conduct that are prohibited by those policies. Interviewees unanimously expressed that all employees and most students and parents would report concerns to someone at the school, and they appreciated having a number of reporting options (e.g., the Principal, the Dean, another administrator, a teacher, or a school social worker) such that the report would find its way to the appropriate official. This contrasts with the survey results, which indicate that only 61% of students responding to the survey indicated that they would confide in a school official. Similarly, only about half of the students responding to the survey indicated that they knew where to get help regarding concerns about inappropriate employee behavior.

The employees, most of the students, and the parent leaders who were interviewed believe that the District has a sincere commitment to preventing and responding to possible inappropriate interactions. However, a third of students responding to the survey felt that the District was more interested in protecting its reputation than protecting students and 39% of employees felt the same way. The survey results tend to show that employees have even less confidence in the District's commitment than students, and are more concerned about the possibility of retaliation for reporting possible misconduct than students. Even those employees, students, and parents who were interviewed acknowledged that (i) based on recently-surfaced concerns regarding incidents under previous administrations, others in the community did not share their belief in the District's commitment to protecting students from employee misconduct; and (ii) for this reason and others, the District could do more to build trust. As one student stated, "It will take a long time for the District to counter the impressions from its previous failures to take action ... the District has to be prepared to take sustained action to change culture and impressions." John Bollman, the advocate who helped bring this issue to the District's attention, suggested that release of this report to the public could help in this regard.

VI. Recommendations

The District has taken a number of steps to prevent incidents of educator sexual misconduct, educate its community about sexual misconduct, and improve its response to reports of sexual misconduct. This has included revisions to its policies and procedures to clearly designate prohibited conduct; training for employees to better understand appropriate boundaries in all contexts, including in-person and digital; and clarifying its procedures for responding to complaints. However, we believe that there are additional steps available to the District to further demonstrate and implement its commitment to the safety and well-being of its students.

1. Enhance current policies by adding provisions regarding precursor behavior, more clearly communicating the requirement to report reasonable suspicions of misconduct, adding examples that involve teacher-student scenarios, requiring employees to sign acknowledgement forms for all relevant policies, and adding a reference in Policy 7:20 to Policy 5:125.

The District should formally identify and prohibit precursor (another word for grooming) behavior in its policies. In recent litigation³⁴ involving grooming behavior that was somewhat similar to that reported in the Miller matter, the court looked favorably on language in the school district's appropriate boundaries/sexual harassment policy that addressed precursor behavior. The District may wish to add similar language to Policies 5:125 and/or 7:20 along the following lines:

All District Adults shall be expected to maintain professional, moral and ethical relationships with District students that are conducive to an effective, safe learning environment. This policy addresses a range of behaviors that include unlawful or improper interactions with students, precursor misconduct and other boundary-blurring behaviors that can lead to more egregious behavior. In this context, precursor misconduct includes the targeting of a student by an adult through various modes of communication with the intention of promoting or engaging in sexual activity with the student. ... This policy applies to conduct committed on or off school property and extends beyond the workday. However, this policy is not intended to interfere with appropriate personal relationships between District Adults and students and their families that exist independently of the District or to interfere with participation in civic, religious or other outside organizations that include District students.³⁵

The District should also amend its policies to clarify that employees must report possible sexual misconduct of which they have a reasonable suspicion. While we were unable to confirm these third-hand reports, several former students interviewed for the Miller review said they believed some District employees had suspicions that Miller was engaging in inappropriate conduct toward boys. A clear mandate in training materials that employees must report possible inappropriate conduct of which they have a reasonable suspicion could help the District reach children who may not come forward with complaints on their own and where employees may feel uneasy about reporting because their knowledge of the alleged misconduct is only a suspicion. Policy 7:20 directs employees to refer reports or complaints of sexual harassment to the Nondiscrimination Coordinator or a Complaint Manager. However, it doesn't address what employees should do if they *observe* possible misconduct, learn of it in some other way, or otherwise have a reasonable suspicion that it may have occurred. The reporting requirement in the Policy should be expanded to clarify this reporting requirement.

The District should add helpful examples of educator sexual misconduct to its policies. The examples of sexual harassment in Policy 7:20 include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm,

³⁴ *D.B. v. Tredyffrin/Easttown Sch. Dist.*, Civ. Act. No. 17-2581 (E.D. Pa. 10/23/2020), [*****casetext.com/case/db-v-tredyffrineasttown-sch-dist](https://www.casetext.com/case/db-v-tredyffrineasttown-sch-dist), last accessed November 19, 2020.

³⁵ Policy 5461, <https://www.tesd.net/cms/lib/PA01001259/Centricity/Domain/14/P5461.pdf>, last accessed November 5, 2020. Consistent with Illinois Criminal Code 5/11-25, any revision to the policies might use the term "grooming" in addition to or instead of "precursor."

threatened or actual destruction of property. These should be expanded to include examples more specifically tailored to misconduct by employees towards students, such as grooming, inappropriate use of social media, providing alcohol or other gifts, requests to keep intimacy secret from parents, and the like.

We further recommend that the District revise Policies 5:125 and 7:20 and/or otherwise require employees to sign a form similar to that used for Policy 5:90, indicating that they have read the current policies and understand their reporting responsibilities under them, and requiring new hires to do the same going forward.

We also recommend the District add a reference to Policy 5:125 in Policy 7:20, to make it clear that electronic communications and social media can be used to engage in sexual harassment.

2. Clarify provision in Student Handbook regarding educator sexual misconduct.

The information on sexual misconduct toward students is contained in Section III of the Student Handbook, which deals with *student* misconduct. While the information also includes misconduct by employees, it should be expanded to include examples more specifically related to such misconduct (such as grooming, inappropriate use of social media, providing alcohol or other gifts, requests to keep intimacy secret from parents, etc.) and moved to another location in the Handbook so that educator sexual misconduct is featured more prominently.

3. Add page to website on sexual harassment and improve search functions.

A search of the District's website for "sexual harassment" yields only the section on District policies and procedures, while searches for "sexual misconduct" and "Title IX" yield no results; a search for "sexual assault" yields the page for Student Assistance Programs, which lists various external resources but provides no substantive information. The District's website also includes a section presenting the various policies mentioned above and includes, under its Human Resources tab, a presentation given to employees in August 2020 on the new Title IX regulations. However, students and parents may not find the District's policies to be easily understandable and are not likely to look at the Human Resources website for information about sexual harassment of students.

We recommend that the District develop a web page specifically on sexual harassment (retrievable by all the above terms) and that it include the following: the a description in plain language of the prohibited conduct, including inappropriate misconduct by employees; a list of resources, such as summaries of and links to relevant District policies and procedures (including complaint procedures); a statement of the reporting options for students (including the Confidential Reporting Tool, and how those reports will be handled) and parents; a statement of the reporting requirements for staff³⁶; an explanation of the counseling services available from

³⁶ As a starting point, the "Procedures" page for District 67 at <https://www.lakeforestschools.org/about-us/district-67/policies-and-procedures>, last accessed November 6, 2020, under "Nondiscrimination," provides: "Any school employee who observes, overhears, or otherwise witnesses harassment based on race, color, religion, national origin,

District social workers; and links to external resources (such as local police, the Zacharias Sexual Abuse Center, and the other resources for sexual assault and abuse included on the Student Assistance Programs webpage³⁷).³⁸ This will address the suggestion by a number of parents and students that it could be helpful to have information about how a report or complaint will be handled when considering making one.

4. Provide more comprehensive information for parents on a more regular basis.

The parent leaders interviewed felt that the District should provide more information to parents related to educator sexual misconduct, including the following: information about current policies and procedures (with links to the actual policies), how to report possible misconduct, the name of the Nondiscrimination Coordinator and the position's responsibilities, what the District would do once it received a report or complaint, and the training to students and employees. This is particularly important given the high percentage of students responding to the survey who indicated that they would be likely to report employee sexual misconduct to a parent.

While the parents interviewed differed in how—and how frequently—this information should be disseminated, our finding that parents lacked knowledge about specific District policies, procedures and resources indicates that more regular communication is warranted. We recommend that the information be sent home periodically (e.g., through “Constant Contact” and announcements in local media) and be posted prominently on the District’s home page with a link to a page on Title IX/sexual misconduct.

We further encourage the District to use the occasion of this review as a jumping-off point for creating ongoing dialogue with District community members, including parents, about issues related to sexual misconduct. The District might consider convening town hall meetings regarding some of the recommendations in this report, offering a regular column or FAQ in the school newspaper, or even commencing a parent reading/discussion group focusing on literature related to school sexual misconduct issues.

5. Engage staff more robustly in sexual misconduct prevention efforts to improve staff knowledge of District policies and procedures and build staff-administration trust.

Our interviews and survey results indicate that the District needs to improve employee retention of information provided about sexual misconduct during its training programs and improve staff-

sex, age or disability should take prompt and appropriate action to address the harassment and to address the prevention of its recurrence.” Per the District, this is a frequently accessed page. This information could be placed on the comparable page for District 115, revised and/or expanded to include reporting information for employees.

³⁷ <https://www.lakeforestschools.org/schools/lfhs/student-services/student-assistance-programs>, last accessed November 6, 2020. This webpage also includes Text-a-Tip under Other Links, which was mentioned by some students and might also be an appropriate resource to list; however, the link to the outside organization that runs the resource (which provides access to a licensed clinical social worker) did not work.

³⁸ For examples of such sites, see <https://www.philasd.org/studentrights/title-ix/> and [*****.montgomeryschoolsmd.org/compliance/titleIX-sexualassault/](https://www.montgomeryschoolsmd.org/compliance/titleIX-sexualassault/), last accessed November 6, 2020.

administrator trust. According to our interviews and surveys, while employees have adequate general knowledge about the District's requirements related to appropriate employee-student interactions, many lack specific knowledge about District policies, reporting mechanisms, and investigative procedures. Indeed, while they reported receiving training on these concepts, our survey results and interviews reflect that employees did not adequately internalize the training content. In addition, a meaningful number of District employees expressed lack of trust in administration motives regarding its handling of sexual misconduct matters as well as its commitment to handle incidents in a fair and responsible manner.

We recommend the District work to more robustly engage staff in its sexual misconduct prevention efforts. One possible avenue for doing so may be to establish a task force comprised of staff, along with a variety of other community members (such as students, parents and administrators) to consider and implement the recommendations in this report. With a leadership role in the District's sexual misconduct prevention and education efforts, District staff may feel more invested in understanding and engaging with the District's sexual misconduct policies and processes as a whole. In addition, including staff as leaders in sexual misconduct prevention efforts could be an important step in showing staff that the administration has a good-faith commitment to the well-being of its students with respect to preventing and addressing sexual misconduct.

6. Conduct regular climate surveys regarding sexual misconduct.

As part of this review, we conducted a survey of students and staff and learned important information about student perceptions about safety, the scope of the District's policies, knowledge gaps, and the need to build trust among the District community. The data we collected helped inform the recommendations in this report. In order to evaluate the District's improvement in connection with the recommendations in this report, the District should consider conducting periodic surveys of students as to their perceptions of the school climate, whether they feel safe, their understanding of the District's policies and procedures, whether they would feel comfortable reporting employee misconduct, and the like. To increase student response rate, the District could offer incentives to encourage students to participate, such as a \$5 card for a local coffee shop or a lottery for a bigger incentive. The results of the survey should be discussed with students, used as an educational tool for additional learning opportunities, and considered in the District's ongoing review of its policies and procedures.

7. Improve notifications and messaging regarding employees' mandatory reporting responsibilities.

We recommend the District improve its notification to the school community of employees' reporting responsibilities. The version of Policy 7:20 adopted in October 2020 provides that employees who receive a report or complaint should forward it to the Nondiscrimination Coordinator or a Complaint Manager. Given that the previous version of the policy did not include this, and to be sure that instances of possible misconduct do not fall through the cracks,

the District should take measures to notify employees – and the school community generally -- of employees’ full reporting responsibilities. For example, as a starting point, the procedures for District 67, under “Nondiscrimination,” provide: “Any school employee who observes, overhears, or otherwise witnesses harassment based on race, color, religion, national origin, sex, age or disability should take prompt and appropriate action to address the harassment and to address the prevention of its reoccurrence.”³⁹ Per the District, this is a frequently accessed page. A similar provision on the District’s website, backed by appropriate messaging to all employees, that explicitly requires reporting to the Nondiscrimination Coordinator or a Complaint Manager could at least be a starting point in ensuring that employees are aware of their reporting responsibilities. The website should also identify the Nondiscrimination Coordinator and Complaint Manager and provide their contact information.

8. Expand and clarify use of Confidential Reporting Tool.

Based on lack of certainty by member of the District’s community regarding the Confidential Reporting Tool, we recommend the District expand the scope of matters that can be reported using the tool and enhance public information about how to use the tool. Most of the employees, students, and parents interviewed knew about the Confidential Reporting Tool, although there was some confusion as to whether it could be used to report inappropriate/sexual misconduct by employees towards students and as between it and Text-a-Tip. The scope of the concerns on the District website that can be reported through the tool should be expanded to specifically include sexual conduct by employees. Information about the tool should clarify what the District means by “confidential” as opposed to anonymous,⁴⁰ including whether a report can be traced back to the individual who submitted it.

A number of parents and employees suggested that the tool be available to parents and employees as well as students as long as precautions are taken to prevent its abuse (e.g., for reports made in bad faith); this would respond to concerns voiced by both employees and parents about the importance of confidentiality in reporting to minimize the possibility of negative attention to reporting individuals from some in the community.

9. Enhance training content, methods of delivery, and regularity of training about sexual misconduct, and ensure that state mandates are satisfied.

Information we collected through interviews and surveys reflect that a meaningful portion of the District’s community lacks sufficient knowledge about sexual misconduct, how and where to report concerns of sexual misconduct, and the District’s policies and procedures for handling such concerns. While students expressed a general understanding of the appropriate boundaries between employees and students, many were not clear on the specific parameters. This could

³⁹ <https://www.lakeforestschools.org/about-us/district-67/policies-and-procedures>, last accessed November 6, 2020.

⁴⁰ Several employees and students suggested that the District implement a reporting option that is truly anonymous; however, others were concerned about the possibility of bad faith reporting – with most saying that confidential reporting is sufficient.

lead to some students not recognizing conduct that actually is prohibited by District policy and therefore not reporting it. We recommend that the District expand its ninth-grade wellness curriculum on sexual harassment to include information on appropriate employee-student boundaries and harassment of students by employees. This information should be reinforced throughout the students' time in the District through additional discussions such as during the required quarterly lunch with guidance counselors and through messaging on social media. The District should also include information about inappropriate use of technology by employees in the pamphlet given to students each year on the rules and expectations for student use. In addition, given the survey results reflecting that only 33% of responding students are aware of the procedures for dealing with reports of inappropriate conduct and 52% are not aware of those procedures, we recommend that student training include information on reporting and investigative procedures.

We similarly recommend enhancing training provided to employees. Survey results indicated that while 67% of responding employees believe that the school has policies to address boundaries and appropriate relationships (with 12% disagreeing), only 44% are aware of the procedures for dealing with reports of inappropriate conduct, and 29% are unaware. We recognize based on our experience at educational institutions across the country that one-time training on sexual misconduct rarely results in comprehensive, internalized knowledge by the employee. We therefore suggest the District reinforce its messaging on sexual misconduct through a variety of channels and forums throughout the year. We recommend that the District reinforce the August 2020 employee training on sexual harassment and Policy 7:20 (including as to the changes in the October 2020 version) through messaging similar to Policy 5:125 as well as additional training during the school year and at the beginning of each year. Several administrators and employees suggested that this training be conducted in small groups, such as at the departmental level, and perhaps with participation by the Nondiscrimination Coordinator and/or Educational Services.

Further, while the August 2020 training touched on a number of important topics and was designed to satisfy the District's training requirements under the Title IX regulations, additional sessions could focus in more detail on specific areas such as the following: the importance of documenting any instances in which they learn about possible inappropriate contact; the importance of prompt reporting of concerns even if they suspect that the alleged conduct did not occur (36% of employees who responded to the survey indicated that this might make them less likely to report) or if they were friends with the accused employee (11% of employees who responded to the survey indicated that this would make them less likely to report); appropriate use and scope of electronic communications with students; appropriate boundaries related to personal topics of conversation; specific examples of educator sexual misconduct; and how the District responds to reports. Data collected indicates that it will be particularly important for the District to cover how it responds to reports of sexual misconduct, given that 27% of the employees who responded to the survey felt that the District was more interested in protecting

students than in protecting its reputation, and that 60% of employees would be more likely to report if they had more confidence in and better understood how the District would respond.

We further note for the District that regular training must also cover ANCRA's content requirements as well, as follows: indicators for recognizing child abuse and child neglect; the process for reporting suspected child abuse and child neglect in Illinois as required by ANCRA as well as the required documentation; responding to a child in a trauma-informed manner; and understanding the response of child protective services and the role of the reporter after a call has been made.

Other enhancements to training could include skill-building workshops and smaller-group discussions on some of the less well-defined aspects of educator sexual misconduct and other topics not covered by the recent training. Indeed, many of the employees interviewed indicated that they would appreciate the opportunity to discuss areas in which they believe there is no clear guidance. This could include discussion of ambiguous conduct; evolving standards and how to deal with changing norms; situations or interactions that an employee might view as innocent that could be misinterpreted by a students; providing constructive ways to deal with actions by students (such as clothing) that make the teachers uncomfortable; how to respond if a student tells them about possible misconduct by an employee (whether to get additional information, what to tell the student about next steps, etc.); how to manage a conversation with a student when the employee suspects that the student is having personal problems that interfere with their participation in school; interactions with students after they graduate; possible obstacles to reporting ("he's my friend, and I know he wouldn't do anything bad"); and more clarity about when to report to DCFS.

Finally, the District should consider more formal tracking of employees' participation in the training, whether the training is online or in-person, and consider including a certification requirement as is being implemented for the workplace harassment training.

10. Improve investigator skills, develop reliable record-keeping protocols, and increase transparency around investigative process.

District staff who play any role in its investigative process must have solid knowledge about the dynamics of educator sexual misconduct as well as strong investigative skills. Consistent with OCR's new regulations, we recommend that all staff involved in the investigation of reports of sexual misconduct be trained on the relevant legal standards and how to conduct interviews. This training should include trauma-informed interviewing, the dynamics of educator sexual misconduct, how to reduce the distress associated with the necessity of recounting difficult or traumatic events, and how to conduct an interview designed to improve the quantity and quality of information children are able to share. While it is outside the scope of our review to assess the investigative skill level of the District's current investigative staff, our review of the District's response to the 2009 allegations of inappropriate conduct by Miller indicates that the best investigative practices were not used at that time.

Our review of the historical allegations against Miller also reflected deficiencies in the District’s record-keeping systems. We therefore further recommend that the District develop consistent and reliable documentation protocols for complaint intake and response. As noted in the relevant sections above, the only documentation of the District’s response to the 2009 allegation were the



We have not reviewed any recent investigations or the District’s current recordkeeping system, as that was beyond the scope of our review. However, if not currently done, we recommend that the individuals who actually conduct any aspect of the investigation prepare their own notes and reports reflecting their actions and determinations; that the District develop templates for outreach communications, explanation of support resources, and investigative reports; and that there be clear procedures for retention of the records. Moreover, we recommend the District continue to examine its policies and procedures related to sexual harassment investigations every two years in accordance with State mandates.

We also recommend the District review the level of transparency provided in its investigative processes to determine if the District is striking the optimal balance between protecting participant privacy and the community’s interest in knowing how complaints of sexual misconduct—an issue of great public import—are resolved. Those interviewed differed as to the degree of transparency they thought should be given to the outcomes of complaints and investigations. However, quite a few—and particularly students—felt that, in light of the past events, transparency would go a long way to building trust with the District. Thus, we recommend that the District keep the students involved in a complaint or report (and their parents) informed of the status of the investigation or other response (including in situations where an immediate response is not possible) and provide the greatest level of transparency regarding the outcome of any report or complaint consistent with the collective bargaining agreement⁴¹ and state law on personnel records.⁴²

⁴¹ See, e.g., Article VI, Section A, which provides that complaints against teachers considered by the Board of Education shall be in closed session and that the Board and District employees shall respect the confidential nature of the proceedings and the interests of the parties involved.

⁴² See, e.g., 820 ILCHS 40/7 of the Illinois Personnel Records Review Act, which provides that an employer or former employer can’t divulge disciplinary actions against an employee to a third party without written notice to the employee through first-class mail to the employee’s last known address mailed on or before the day the information is divulged. This apparently includes school districts – see [*****.iasb.com/IASB/media/Documents/Personnelrecords2011.pdf](http://iasb.com/IASB/media/Documents/Personnelrecords2011.pdf), last accessed November 5, 2020. Section 7(n) provides an exemption for “[r]ecords relating to a public body’s adjudication of employee grievances or

11. Ensure the District has robust supports in place for vulnerable students.

Both our review of the Miller allegations and the literature about child sexual abuse reinforce the fact that children who are otherwise vulnerable face a higher risk of being a victim of abuse. Several of the individuals who self-identified as alleged victims/survivors of Miller described themselves as vulnerable due to, for example to extreme stresses at home, parental illness or absence, social ostracization at school, or other traumas. Literature on child sexual abuse indicates that perpetrators identify vulnerable victims and exploit that vulnerability to gain increased access to, and trust from, the child. While we did not evaluate the District's current support resources because doing so fell outside the scope of our review, we recommend the District ensure that it has robust guidance counseling, information about local support agencies, and information about national and regional online support options (such as domestic violence and teen crisis shelters, suicide prevention hotlines, LGBTQ + networks, etc.) so that vulnerable students can obtain the support they may need from positive and constructive sources.

12. Review and monitor physical space on the high school campus.

We recommend the District survey the high school's physical space to identify any areas without windows or otherwise not subject to observation and take steps to ensure that these locations are appropriately monitored. We further recommend the District communicate its expectations to employees regarding appropriate physical locations for employee-student interactions. The employees and students who were interviewed all indicated that meetings between employees and students take place in the many locations in the building where employees and students can meet with some privacy but still public enough for observation by others. Nevertheless, as our review of the Miller allegations indicates that several students alleged kissing, hugging, and other conduct occurring in closed areas, the District may wish to confirm that that employee-student interactions are occurring in appropriate locations.

13. Consider suggestions from advocate John Bollman.

- **Restructure or hire a Nondiscrimination Compliance Officer.** John Bollman, the advocate who helped bring this issue to the District's attention, raised a concern about what he perceived to be a lack of supervision of David Miller, which Bollman believes allowed Miller to engage in the reported sexual misconduct. While the employees leading the theater program now report the Ashleigh Malec, the Director of Student Activities, Bollman nonetheless recommended that the District hire a health and safety officer with sufficient authority and a clear role in the prevention and response of employee sexual misconduct.. Bollman suggested the role would require independence and substantial authority, along the lines of a Title IX coordinator at the university level.

disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed." *See also* 5 ILCS 140/7(c) of the Illinois Freedom of Information Act).

The position could have a dual reporting structure – reporting to the Superintendent and to the Board. Should the District wish to pursue this suggestion, it might consider designating the Nondiscrimination Coordinator (whether that be Rebecca Jenkins or another employee) to fill this role.

- **Establish ongoing support system for past misconduct.** Bollman further suggested that the District should create an ongoing process for individuals who believe they were subjected to sexual misconduct by employees in the past to come forward, to include a fund to provide resources for mental health support.

VII. Conclusion

We are impressed by the District’s commitment to examine the circumstances surrounding the allegations involving David Miller, and we appreciate the frankness of Lake Forest’s students, parents, and employees in their interviews and survey responses. We note that the genesis for this review stems from the number of former students who reached out to the District in 2019 and 2020 to share their experiences. Were it not for those courageous individuals, the important work of this review would not have taken place.

Over the course of our review, numerous individuals commended the District’s decision to conduct this external review and the District’s attempt to understand what had occurred in the past. Those individuals asked that the lessons learned from our work find genuine purpose in implementation to prevent possible future incidences of educator sexual misconduct. Based on our experiences conducting this review, we have confidence in the District’s ability to integrate our recommendations effectively toward this goal.