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## **INVESTIGATION REPORT**

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To: Dr. Stephen Plank, Superintendent & Connie Zinnen, Assistant Superintendent  
Burlington Area School District

From: Saveon D. Grenell, Attorney w/ Buelow Vetter Buikema Olson & Vliet, LLC

Date: April 7, 2021

Subject: **Investigation Report**

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### **BACKGROUND**

On January 7, 2021, the Burlington Area School District (“the District”) received a verified summary of a complaint from [REDACTED] (“the Complainant”), generally alleging the following:

- [REDACTED] exhibits discriminatory behavior towards females, persons of color, and anyone who does not agree with his politics;
- [REDACTED] has a long history of pushing his ideologies, political views, white supremacy cultural norms and indoctrination onto students; and,
- Reports of students being mocked and belittled if they wouldn't stand up for the pledge of allegiance in his class.

As a result of the submitted complaint, the District authorized a confidential investigation to be conducted by myself, Saveon Grenell, Attorney with Buelow Vetter Buikema Olson & Vliet, LLC, under Burlington Area School District Board Policies 5517 “Student Anti-Harassment/Anti-Racism” and 2260 “Nondiscrimination and Access to Equal Educational Opportunity.”

Specific allegations reviewed as part of the investigation are set forth in the “Findings and Conclusions” section of this report.

### **EXECUTIVE SUMMARY**

Based on my investigation, [REDACTED] has not violated Board policies, and state or federal laws as it pertains to any alleged discrimination and the Pledge of the Allegiance. I also do not find evidence that [REDACTED] has indoctrinated or otherwise persuaded his students towards one particular political ideology or affiliation. However, [REDACTED] has clearly shown he needs to improve his overall judgment and professionalism as a Teacher in the District, as explained below.

## INVESTIGATION PROCESS

Between January 20, 2021 and the date of this report, the following individuals were interviewed, or contacted to provide relevant information, as part of the investigation:

- [REDACTED] – Complainant
- [REDACTED] – History Teacher
- Connie Zinnen – Assistant Superintendent of Burlington Area School District
- [REDACTED] – History Teacher
- [REDACTED] – History Teacher
- [REDACTED] – Special Education Teacher
- [REDACTED] – Student
- [REDACTED] – Student
- [REDACTED] – Student
- [REDACTED] – Student
- [REDACTED] – Student
- [REDACTED] – Student
- [REDACTED] – Student

As part of the investigation, Complainant was interviewed on January 20, 2021. Complainant was provided advance notice of the interview. I reviewed with Complainant the specific information that gave rise to this investigation, obtained her response, and provided her with an opportunity to provide any information she believed would be pertinent for me to consider. Complainant provided me with documentation subsequent to our discussion. See Exhibit A. [REDACTED] was interviewed on January 21, 2021 and February 4, 2021. In doing so, I advised him the investigation was confidential, informed him retaliation was prohibited. Students and staff members who were interviewed were identified by District Administration. Students were not compelled to interview with me and their participation was optional. Some students declined to be interviewed.

Prior to starting each interview, I introduced myself and informed each individual the matter was confidential. I also indicated that, generally, information they provided would not be disclosed, unless it was in furtherance of my investigation and relevant for production of this report. I also expressed that retaliation from anyone or towards anyone involved in this process was prohibited.

**In addition, the following law and policies, in relevant part, were reviewed and considered:**

### Legal Authority

#### CIVIL RIGHTS ACT OF 1964

##### **Title VI of the Civil Rights Act of 1964**

Title VI of the Civil Rights Act of 1964 provides: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d et seq.

The legal standards for determining compliance with Title VI are set forth in regulations at 34 C.F.R. § 100.3(a) and (b). The regulation, at 34 C.F.R. § 100.3(a), states that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance. Section 100.3(b)(1)(i)-(vi), further states that a recipient may not, on the grounds of race, color or national origin, deny any individual any service or benefit of its programs; provide any service or benefit to an individual which is different or provided in a different manner, subject an individual to segregation or separate treatment in any matter related to receipt of any service or other benefit under the programs; restrict an individual in the enjoyment of any benefits of its programs; treat an individual differently in determining whether he or she satisfies any admission, enrollment, eligibility, or other requirement or condition to be provided any service or other benefit in its programs; or, deny an individual an opportunity to participate in a program through the provisions of services that is different from that afforded others under the program. The regulation, at 34 C.F.R. § 100.3(b)(2), also provides that a recipient may not utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

Title VI and its implementing regulation require that a school’s disciplinary policies and practices be applied to students without regard to a student’s race. Title VI prohibits schools from intentionally disciplining students differently based on race. Enforcement of a rule or application in a discriminatory manner is prohibited intentional discrimination. To establish a Title VI claim, a plaintiff must show: (1) that the defendant discriminated against him/her on the basis of race, (2) that the discrimination was intentional, and (3) that the discrimination was a “substantial” or “motivating factor” for the defendant's actions.

Absent direct evidence of intentional discrimination based on race, the Office of Civil Rights will generally examine circumstantial evidence to evaluate whether discrimination occurred, asking: 1) did the school limit or deny educational services, benefits or opportunities to a student or group of students of a particular race by treating them differently from a similarly-situated student or group of students of another race in the disciplinary process, and if so 2) can the school articulate a legitimate, nondiscriminatory reason for the different treatment, and if so 3) is the reason articulated a pretext for discrimination.

## **BURLINGTON SCHOOL DISTRICT BOARD POLICY**

### **Board Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity**

The Board is committed to providing an equal educational opportunity for all students in the District.

The Board does not discriminate on the basis of race, color, religion, national origin, ancestry, creed, pregnancy, marital status, parental status, sexual orientation, sex, (including transgender status, change

of sex or gender identity), or physical, mental, emotional, or learning disability ("Protected Classes") in any of its student program and activities.

### **Board Policy 5517 – Student Anti-Harassment/Anti-Racism**

The Burlington Area School District and Board reject all forms of racism and harassment of a student, staff member, or school visitor as being destructive to the district's mission, vision, values, and goals. The District pledges and is committed to providing a physically and psychologically safe, secure and respectful environment, free from discrimination and harassment on the basis of race, color and national origin for all students and staff. This includes but is not limited to: in school buildings, on school grounds, in school buses and at school-sponsored activities and events.

The Board will not tolerate any form of harassment and will take all necessary and appropriate actions to eliminate it, including suspension or expulsion of students and disciplinary action against any other individual in the School District community. Additionally, appropriate action will be taken to stop and otherwise deal with any third party who engages in harassment against our students.

The Board will vigorously enforce its prohibition against harassment based on the traits of sex (including transgender status, change of sex, or gender identity), race, color, national origin, religion, creed, ancestry, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, or any other characteristic protected by Federal or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. Additionally, the Board prohibits harassing behavior directed at students for any reason, even if not based on one of the Protected Classes, through its policies on bullying (See Policy 5517.01 – Bullying).

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Individual Racism**

Pre-judgment, bias, or discrimination by an individual based on race. Individual racism includes both privately held beliefs, conscious and unconscious, and external behaviors and actions towards others.

### **Board Policy 3210 - Staff Ethics**

An effective educational program requires the services of men and women of integrity, high ideals, and human understanding. To maintain and promote these essentials, the Board of Education expects

all professional staff members to maintain high standards in their working relationships, and in the performance of their professional duties, to:

- A. recognize basic dignities of all individuals with whom they interact in the performance of duties;
- H. adhere to the policies of the Board;
- I. refrain from using position or public property, or permitting another person to use an employee's position or public property for partisan political or religious purposes. This will in no way limit constitutionally or legally protected rights as a citizen.

### **Board Policy 2131 – Educational Outcome Goals and Expectations**

In fulfillment of the District's mission to provide a quality education for all of the students, the Board believes the mission is being accomplished when students confirm that they have achieved the following educational goals.

#### **Citizenship**

- A. An understanding of the basic workings of all levels of government, including the duties and responsibilities of citizenship.
- B. A commitment to the basic values of our government, including by appropriate instruction and ceremony the proper reverence and respect for and the history and meaning of the American flag, the Declaration of Independence, the U.S. Constitution, and the constitution and laws of the State.
- C. The skills to participate in political life.
- D. An understanding of the functions of organizations in society.
- E. Knowledge of the role and importance of biological and physical resources.
- F. Knowledge of State, National, and world history.
- G. An appreciation and understanding of different value systems and cultures.
- H. An understanding, at all grade levels, of human relations, particularly with regard to American Indians, Black Americans, and Hispanics.

The Board believes that all students in this District will be able to demonstrate these learnings at a level that is commensurate with their age and capabilities.

### **Board Policy 2240 – Controversial Issues in the Classroom**

The Board believes that the consideration of controversial issues has a legitimate place in the instructional program of the schools.

Properly introduced and conducted, the consideration of such issues can help students learn to identify important issues, explore fully and fairly all sides of an issue, weigh carefully the values and factors involved, and develop techniques for formulating and evaluating positions.

For purposes of this policy, a controversial issue is a topic on which opposing points of view have been promulgated by responsible opinion.

The Board will permit the introduction and proper educational use of controversial issues provided that their use in the instructional program:

- A. is related to the instructional goals of the course of study and level of maturity of the students;
- B. does not tend to indoctrinate or persuade students to a particular point of view;
- C. encourages open-mindedness and is conducted in a spirit of scholarly inquiry.

Controversial issues related to the program may be initiated by the students themselves provided they are presented in the ordinary course of classroom instruction and it is not disruptive to the educational setting.

Controversial issues may not be initiated by a source outside the schools unless prior approval has been given by the principal. Issues pertaining to human growth and development, as defined by statute, are subject to 118.019, Wis. Stats.

When controversial issues have not been specified in the course of study, the Board will permit the instructional use of only those issues which have been approved by the principal.

In the discussion of any controversial issue in the classroom or in the course of professional duties, a teacher, after student discussion on the matter has concluded, may express a personal opinion, but shall identify it as such, and must not express such an opinion for the purpose of persuading students to his/her point of view. The classroom shall not be used as a forum for the discussion of workplace issues.

The Board recognizes that a course of study or certain instructional materials may contain content and/or activities that some parents find objectionable. If after careful, personal review of the program lessons and/or materials, a parent indicates to the school that either content or activities conflicts with his/her religious beliefs or value system, the school will honor a written request for his/her child to be excused from particular classes for specified reasons. The student, however, will not be excused from participating in the course or activities mandated by the State and will be provided alternative learning activities during times of parent requested absences.

### **Board Policy 8800 – Religious and Patriotic Ceremonies and Observances**

Decisions of the United States Supreme Court have made it clear that it is not the province of a public school to advance or inhibit religious beliefs or practices. Under the First and Fourteenth Amendments to the Constitution, this remains the inviolate province of the individual and the church of his/her choice. The rights of any minority, no matter how small, must be protected. No matter how well-intended, either official or unofficial sponsorship of religiously-oriented activities by the school are offensive to some and tend to supplant activities which should be the exclusive province of individual religious groups, churches, private organizations, or the family.

Every school in the District shall offer the Pledge of Allegiance or the National Anthem each school day in grades 1 through 12. District staff conducting these activities shall protect the rights and the privacy of a nonparticipating student.

### **FINDINGS AND CONCLUSIONS**

The following findings and conclusions for each allegation were reached based on the interviews, a review of documents provided and a review of applicable policies and procedures.

I met with Complainant on January 20, 2021 to discuss the various matters described in her formal complaint that she submitted to the District on January 7, 2021. In general, those matters were submitted to the Burlington Coalition for Dismantling Racism (BCDR), of which the Complainant is a member, through anonymous complaints of community members with a majority of those complaints being from past students of [REDACTED]. Most of those students were those who had graduated from the District several years prior. Complainant believed that getting current minority students within the District to come forward and discuss these particular issues is extremely difficult. Throughout my investigation, I was able to speak to a diverse group of students (Black, White, Hispanic, Male and Female). Parents of each student, if they wanted, were able to participate in the interview and did so.

Complainant provided me with the following allegations regarding [REDACTED] 1) [REDACTED] treated female students and students of color less favorably than their White counterparts (including, but not limited to, White athletes); 2) [REDACTED] would often make sexist and misogynistic comments; 3) [REDACTED] would teach conspiracy theories, push his own political ideologies on students and not consider their point of view (including matters such as election fraud, “far-right” political perspectives, and allegations that [REDACTED] downplayed the Coronavirus pandemic); 4) [REDACTED] taught a lesson on the Holocaust and stated, “the Jewish community brought the Holocaust on themselves;” and 5) [REDACTED] would mock and belittle students who did not stand for the Pledge of Allegiance.

After my January 20, 2021 conversation with Complainant, I spoke to [REDACTED] and his attorney on January 21, 2021 to discuss the various allegations against him. I also spoke to [REDACTED] on February 4, 2021 after I had several other interviews with students and staff. After the conclusion of my interviews, several members of the public, and even counsel for [REDACTED] filed public records requests. I reviewed the documentation in order to determine whether any of it was relevant to my investigation and the completion of this investigation report.

### Political Ideology

One major concern brought up by Complainant was that [REDACTED] was forcing his own political ideologies on students and indoctrinating them in the process. Complainant was not able to provide me with specific instances by which this occurred other than a general belief he was indoctrinating students with his own beliefs. This led me to ask students to describe [REDACTED] teaching style and provide me their take on whether he inserted his own personal opinion on matters discussed in the classroom. Almost every student I spoke to said that [REDACTED] did not provide one-sided information in regards to classroom work. Many of the students explained to me that they are able to share their own point of view in class but at least one student believed his opinion would be shot down when he spoke up. Several of the students indicated [REDACTED] would often give his own personal opinion on politics. Most students did not feel like they were being persuaded one way or another by [REDACTED] but at least one student believed [REDACTED] tries to persuade students. None of the students indicated [REDACTED] has explicitly stated what his political ideologies were or what political party he was affiliated with, however a few of them indicated they could infer by his comments in class. A majority of the students believed that while [REDACTED] might give his own opinion on a topic from time to time, he encouraged students to do their own research and form their own opinion on matters they discussed in class.

Under Board Policy 2240 – Controversial Issues in the Classroom, it states, in relevant part:

The Board believes that the consideration of controversial issues has a legitimate place in the instructional program of the schools.

Properly introduced and conducted, the consideration of such issues can help students learn to identify important issues, explore fully and fairly all sides of an issue, weigh carefully the values and factors involved, and develop techniques for formulating and evaluating positions.

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**In the discussion of any controversial issue in the classroom or in the course of professional duties, a teacher, after student discussion on the matter has concluded, may express a personal opinion, but shall identify it as such, and must not express such an opinion for the purpose of persuading students to his/her point of view.** The classroom shall not be used as a forum for the discussion of workplace issues.

As noted above, there was only one student who expressed he believed [REDACTED] indoctrinated students. However, I have not come to the same conclusion based on my discussions with other students and a review of the board policies. Board Policy 2240 gives a teacher autonomy in the classroom to express his or her own personal opinion on the subject matter. [REDACTED] doing so, in and of itself, would not violate this particular Board Policy. So long as [REDACTED] identifies his personal opinion and does not do so for the purpose of persuading students, the board policy allows him to



express his own opinion. Therefore, based on my investigation, I cannot conclude that [REDACTED] indoctrinated students or “persuaded” them towards a particular viewpoint. A recommendation regarding that is addressed below.

#### “Rudy Giuliani” Election Fraud Video

[REDACTED] also explained to me that the “Rudy Giuliani”<sup>1</sup> video that he posted on his Google Classroom was shared in November 2020 and had no connection to his presence in Washington D.C. Based on my investigation, I have come to that same conclusion. According to [REDACTED] he posted the video as an update on current events, because this was around the time when states, most specifically Pennsylvania, had several lawsuits pending related to the election. [REDACTED] said towards the end of the class period at least three students were talking about the election and he showed them a few minutes of the video and then posted the video online for students to finish watching if they wanted to. He claimed that while showing the video to these students, other students were engaging in other activities in the classroom and did not require the other students to watch it. He further explained that the video was never assigned as coursework to students even though he posted it on his Google Classroom nor were students were required to watch it. [REDACTED] also indicated there were no instructions attached to this video, unlike other times he would assign work for his students. I asked the students I interviewed about the video and none of them actually watched it (or even knew about it), other than one student who said that a portion of it was shared in class. No students described it as being a part of any lesson or assigned coursework. Therefore, I have no reason to believe it was associated with any actual class lesson or that students were required to watch the video.

Regardless, I still reviewed the video as part of my investigation. It has been described to me as the “Rudy Giuliani” video because of the thumbnail photo of the video, but Rudy Giuliani did not actually speak/appear in the video. The video contained an update on information regarding the various lawsuits stemming from the 2020 Presidential Election, which was done by Roman Balmakov, a video producer with The Epoch Times. On its website, The Epoch Times describes itself as “America’s fastest-growing independent news media” and that its “mission is to bring you a truthful view of the world free from the influence of any government, corporation, or political party.” The website also says, “we aim to tell you what we see, not how you think; we strive to deliver you a factual picture of reality that lets you form your own opinions.”<sup>2</sup> On Wikipedia, The Epoch Times is described as “a far-right international multi-language newspaper and media company affiliated with the Falun Gong new religious movement, based in Midtown Manhattan.”<sup>3</sup>

Under Board Policy 2240 – Controversial Issues in the Classroom, it states, in relevant part:

The Board believes that the consideration of controversial issues has a legitimate place in the instructional program of the schools.

Properly introduced and conducted, the consideration of such issues can help students learn to identify important issues, explore fully and fairly all sides of an issue, weigh

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<sup>1</sup> The video can be viewed here: <https://youtu.be/zIEP2ZA03lg> (last accessed on February 15, 2021).

<sup>2</sup> <https://www.theepochtimes.com/about-subscription> (last accessed on February 15, 2021).

<sup>3</sup> [https://en.wikipedia.org/wiki/The\\_Epoch\\_Times](https://en.wikipedia.org/wiki/The_Epoch_Times) (last accessed on February 15, 2021).

carefully the values and factors involved, and develop techniques for formulating and evaluating positions.

I asked [REDACTED] if, in general, when posting/showing videos in class whether he shares opposite viewpoints. According to him, even if opposite viewpoints are not shown/or posted, he always discusses both sides of any issue with his students. [REDACTED] explained that there was never any real cogent discussion of election fraud in his classroom. When interviewed, most students corroborated that there was no cogent discussion of election fraud, but at least one student stated [REDACTED] did make comments about voter fraud on and off throughout the year. I'll note that there would not be anything inherently inappropriate in discussing the 2020 Presidential election with 10th and 11th grade students, especially in a History class. Based on my review of the video, I did not find it to be inherently controversial or find the content to be inappropriate for high school students, especially only weeks after a highly contested Presidential election. Even though [REDACTED] may have an interest in keeping students up to date about current events, posting the video on Google Classroom without providing any context, introduction, or opportunity for discussion/questions shows questionable judgement.

### The Holocaust

Complainant also alleged that [REDACTED] made a statement, in a lesson about the Holocaust, that "Jews brought the Holocaust on themselves." I questioned [REDACTED] regarding this statement and the lesson. [REDACTED] explained that he has taught this lesson for nearly four years. He indicated that, unlike other years, he had less time to cover World War 2 this year. He said that his usual three day lesson on the Holocaust turned into a one day lesson. With this particular lesson, he says it starts off with: "How do you kill 11,000,000 people?" [REDACTED] explained that this question comes from a book entitled How do you kill 11 million people by Andy Andrews. [REDACTED] stated to me that he poses the question in the reverse to students, stating: "How do 11 million people allow themselves to be killed?" He says he does not mean any disrespect by posing that question and that it leads into what he admitted was a controversial explanation of asking students what they would do, in the context of the lesson, if the students were shot one by one; essentially getting them to think about whether they would run or fight. He said that he then shows students actual photographs of that timeframe and to see if they can identify the Nazi soldiers with guns. To his point, there weren't many soldiers with guns and the answer to this thought-provoking question was that [you] "lie" to those individuals. [REDACTED] provided me with the lesson materials that he used and I provided those to Ms. Connie Zinnen for the District's consideration. See Exhibits B. <sup>4</sup> Based on discussions with students, the majority of whom recalled the lesson, I substantiated that the lesson took place.

I'll further note that the "lead-in" questions/conversation regarding shooting students one-by-one is rather concerning and inappropriate, especially considering the increased occurrences of public school shootings throughout the country that have led to the death of many students. I do not believe the Holocaust, in and of itself, would be considered a "controversial" topic as it is a part of history, however, the book used by [REDACTED] and his presentation to the class were provocative and could be

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<sup>4</sup> There is a video regarding the Holocaust lesson that can be provided to the Complainant upon request.

considered controversial. Board Policy 2240 on Controversial Issues in the Classroom states, in relevant part:

Properly introduced and conducted, the consideration of such issues can help students learn to identify important issues, explore fully and fairly all sides of an issue, weigh carefully the values and factors involved, and develop techniques for formulating and evaluating positions.

Therefore, the District should determine whether the materials used by ██████ in his lesson were properly introduced, conducted, and appropriate based on how they were presented while also considering the age and maturity of the students. A recommendation regarding that is addressed below.

### COVID

The complaint itself did not allege any specific allegations related to the coronavirus pandemic, but it came up in my investigatory interview with Complainant and a few students mentioned it to me in the context of ██████ relaying his own personal opinions about certain topics. For instance, at least one student said ██████ described masks as “political muzzles.” ██████ denied making that statement and no other student corroborated that allegation. Allegedly, ██████ complained about having to wear masks early on in the school year. ██████ did mention he had discussed particular conspiracy theories surrounding the coronavirus with students, but that it was in the context of a lesson on the topic. I was able to confirm that notion with at least two students, who mentioned they conducted a lesson on the coronavirus pandemic whereby students in the class were supposed to pick a student from an article and analyze/provide their thoughts about that particular student’s experience as it related to the pandemic.<sup>5</sup> That lesson used Scholastic teacher materials provided by the New York Times. I do not find any issue with the materials based on my review. The students also confirmed that they did discuss some conspiracy theories about the coronavirus for that lesson but at least one student said they discussed specific conspiracy theories such as whether the coronavirus was man-made and that China released it. Based on my investigation, I can substantiate that the coronavirus pandemic was discussed in the classroom in various forms, but cannot conclude that ██████ necessarily “downplayed” the pandemic.

### Pledge of Allegiance

The Complaint mentioned an allegation that ██████ has mocked and belittled students if they did not stand for the Pledge of Allegiance (“the Pledge”). Therefore, I asked ██████ about the allegation. ██████ indicated that he did not, and does not require his students stand up for the Pledge. He added that, “they [teachers] can’t” require them to do so. He says he has noticed students sitting down during the Pledge but reiterated he does not require students stand for it.

As part of my investigation, I asked current students who have had ██████ whether or not he required students to stand for the Pledge or mocked or belittled students who did not stand for the

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<sup>5</sup> Those materials can be viewed here: <https://upfront.scholastic.com/issues/2019-20/051120/coronavirus-diaries.html#1090L>. (Last accessed, April 7, 2021).

Pledge. Each of those students indicated that he had not, and could not recall times whereby students were not standing for the Pledge. Therefore, based on the evidence, I cannot conclude that [REDACTED] has required students to stand for the Pledge of Allegiance. However, email correspondence did show that [REDACTED] in March 2017, asked several students why they had chosen not to stand for the Pledge. That email is as follows:

*Hey ladies,  
Firstly, let me just say that NO, you're not in trouble. So...just to make that clear. Anyway, I've noticed that you choose not to stand and salute the American flag at the beginning of each school day. Again, I'm not condemning you for your actions, I'm just curious to better understand your reasons behind why, that's all. Standing and saluting the flag during the pledge of allegiance is not a mandatory thing to do, but again...I'm just wondering why you choose to sit. I'm not turning your names over to a school review board or anything like the McCarthyism simulation we did in class, so please don't let that thought worry you. Seriously! Do you trust me? Hababa... Really, I'm just curious and want to understand this aspect of today's youth culture better.  
If you find it possible to just give me a little feedback as to why, I'd be very appreciative of you for doing so. Thanks in advance!*

[REDACTED] then received several replies. One of which stated:

*Me personally I believe that flag means nothing anymore. I used to see the flag as a symbol of how this country accepted everyone. How we were all treated equally. I'm aware that some may think it's disrespectful to those who fought for this country but it's not. I still give those who served a lot of respect. As you can tell, this country is divided more then ever and that flag does not mean what it uses to mean to me anymore, since I've had to face a lot of judgement from people for who I am and where My family and me came from. We are not treated equally. It's now just a piece of cloth that had colors on it. I was not worried that you would bring it to the school review board because they can't do anything. They don't scare me nor can they make me do anything. That is the reason why I don't stand for the flag anymore.*

In response, [REDACTED] stated the following:

*Thank you [Student]. I'm sorry that people treat you and your family that way. Clearly, this negative treatment has tarnished your perception of what you once thought of America. We, as we always have had to do throughout history, will need to continue to push on in the times ahead for our country. I hope it gets better for you! Thank for sharing this with me.*

Another response [REDACTED] received to his initial email is as follows:

*Hi [REDACTED]  
I don't stand for the pledge because of the things that I stand for. Now I*

*know you'd appreciate it if I told you the exact reasonings but I'd prefer to not state them because not many people that I am friends with/family support them. However the main reason is equality, one of the 5 ideals. I do not believe that everyone in the United States is equal now a days. To that is one of the reasons I don't stand. I however apologize if it is disrespectful to you it's just what I believe is right.*

In response, [REDACTED] stated the following:

*Nope. You don't have to apologize. I just wanted to understand why. Thanks.*

Based on my review of the above email exchange, I do not conclude that [REDACTED] asking students why they chose not to stand for the Pledge is a form of mocking or belittling them, but, doing so could deter students from exercising their right not to participate, which should be equally frowned upon. Therefore, [REDACTED] should refrain from doing so in the future. A recommendation regarding that is addressed below.

#### Black Lives Matter ("BLM")

The complaint alleged that anytime BLM is discussed in the classroom, [REDACTED] would speak negatively about Black people and justifies the involvement of White people. Complainant could not bring up any specific examples. [REDACTED] described that allegation by Complainant as "ridiculous". When asked, [REDACTED] explained that he cannot recall ever discussing BLM as a topic in class, and certainly not the "movement" itself. At least one student I asked about the topic said [REDACTED] called members of BLM, "clowns." [REDACTED] indicated that assertion was not true. I could not independently verify that statement. Every other student I interviewed indicated that BLM has never been a topic of conversation in class. In addition, [REDACTED], a Special Education Teacher, said that out of all the years in [REDACTED] classroom, he never heard [REDACTED] speak of BLM or witnessed him treat students differently based on their characteristics in a protected class. [REDACTED] explained that in his role as Special Education Teacher, he would assist students in the classroom for roughly two hours per day. In doing so, he said nothing truly occurred in the classroom that would "set off any alarms." Based on the evidence, the claim regarding BLM is unfounded.

#### Discriminatory Behavior

The complaint alleged that [REDACTED] has exhibited discriminatory behavior towards women and students of color. No specific examples of such were provided by the Complainant. However, I explicitly asked all students whether they believed [REDACTED] treated students differently based on their race, gender, religion, etc. Every student indicated that [REDACTED] does not. Based on my investigation, there is no evidence [REDACTED] has discriminated against students based on their characteristics in a protected class.

### **CONCLUSION**

Based on my investigation, [REDACTED] has not violated Board policies or state or federal laws as it pertains to any alleged discrimination and the Pledge of the Allegiance. There is no evidence [REDACTED] has treated students differently or discriminated against students based on their characteristics in a

protected class. I also do not find evidence that [REDACTED] has indoctrinated students as alleged in the complaint. Even though I have not found a violation of board policy, [REDACTED] has much room for improvement in his overall professional judgment and decision-making, as explained in this report.

[REDACTED] should be extremely cognizant of how particular topics and lessons in the classroom may impact students, both emotionally and socially. For instance, the coronavirus pandemic has impacted people in many different ways. Some people have had family members who have passed away because of it and others have lost their jobs, etc., so referring to the pandemic as if it is not “a big deal” could place students in uncomfortable and harmful discussions. Similarly, Asian-Americans have seen increased violence against them since the beginning of the pandemic in March 2020 and the use of racially insensitive rhetoric has become ever more prevalent.

As far as politics is concerned, it is woven in the fabric of the classes [REDACTED] teaches and therefore nearly impossible to not discuss. With that said, each student I spoke with seemed more than capable of forming their own opinions and expressing the same as it related to any topic that could be discussed in his class, especially politics. Board Policy 2231 addresses the District’s educational outcome goals and expectations for students. In relevant part, the District wants students to accomplish “an understanding of the basic workings of all levels of government, including the duties and responsibilities of citizenship” and exhibit “the skills to participate in political life.” These are outcome goals that would naturally flow from a course taught on History and therefore, speaking on politics in the classroom would not inherently be a violation of board policy. However, again, [REDACTED] should ensure students are encouraged to provide their own perspectives, and discussion regarding the same should not be limited to any one perspective, nor should personal bias guide the discussion, which is prohibited in Board Policy 2240.

### **RECOMMENDATIONS**

1. The District should require [REDACTED] participate in professional development (e.g., culturally responsive education) which shall be determined at a later date by Administration.
2. The District should meet with [REDACTED] to discuss expectations for curriculum and the use of controversial topics/materials in the classroom. Written directives should be provided as appropriate.
3. The District should develop a schedule of announced and unannounced observations of [REDACTED] classroom for the 2021 – 2022 school year and provide him documented feedback regarding the same.
4. The District should direct [REDACTED] to not ask students why they choose not to stand for the Pledge of Allegiance. If students were to initiate a conversation with [REDACTED] about the topic then it may be appropriate for him to discuss the matter with them. If, for some reason, [REDACTED] believes it’s necessary to ask students, he should first seek permission from building administration.