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September 5, 2018

VIA CERTIFIED MAIL and E-MAIL

Julianna Seldon
Board Chair
North Bend School District #13
1913 Meade St.
North Bend, OR 97459

Bill Yester
Superintendent
North Bend School District #13
1913 Meade St.
North Bend, OR 97459

Rebekah Jacobson
Attorney for NBSD
1011 Commercial St. NE
Salem, OR 97301

Brett Mersereau
Law Office of Brett Mersereau
2100 NE Broadway St Suite 119
Portland, OR 97232

RE: TORT CLAIMS NOTICE ORS § 30 *et.seq.*

Dear Ms. Seldon, Mr. Yester, Ms. Jacobson, and Mr. Mersereau:

This letter serves as Tort Claim Notice pursuant to ORS 30.275. On behalf of Mr. Lucero, we assert that Mr. Lucero was subjected to tortious and wrongfully motivated conduct by his employer North Bend School District (District) and its agents; the North Bend School Board (Board) and its agents; and, by the District's attorney, Rebekah Jacobson and her agents.

On June 12, 2018, we wrote to the Board listing our concerns regarding the District's unlawful treatment of Mr. Lucero. (June 12 Letter, Attached). While we hoped that this letter would serve as a starting point for open and transparent discussions with the District and the Board, the opposite has occurred. At every turn, the District and the Board have demonstrated a preference for secrecy rather than transparency, and for self-preservation rather than accountability.

Since June 12, we have made repeated attempts to obtain public records from the District. Our attempts were met with curt and immediate denials by the District forcing us to seek an order, mandating production of the requested records, from the Coos County District Attorney (DA). We received such an order on July 23, 2018. The District responded by charging Mr. Lucero \$4,896.50 for production of the records ordered to be released by the DA. On August 16, 2018, we protested this fee and asked for an explanation as to why the District estimates that it will take 35 hours to run a

search for records, given that that our requests cover an extremely limited period of time and information exchanged between very few people. (August 16 Letter, Attached). Not surprisingly, the District has still not responded to our August 16, 2018 letter.

As a preliminary matter, we, hereby, incorporate all claims, facts, and concerns raised in our June 12, 2018 letter into this Tort Claim Notice. We anticipate that more claims will be added as production of documents continues, but based on the information we have to date, we assert the following:

Invalid Settlement Agreements

On May 21, 2018, the District entered into settlement agreements with Olivia Funk and Hailey Smith. These agreements were signed by Superintendent Bill Yester. There was no Board vote, and no legal authority for such a settlement without a Board vote. Among other things, without just cause and without due process, the settlement agreements punished Mr. Lucero by removing him from his position as North Bend High School principal and by prohibiting him from serving as principal of North Bend Middle School. Additionally, the settlement agreements required that the District train staff; make payments (to an ACLU attorney and to a private attorney); hire contractors; and, make changes and take action related to the District's "Policies and Procedures".

Because the terms of settlement could not be legally delegated to Superintendent Yester, and no legitimate or legal delegation occurred, a Board vote was required to legally approve the agreements and the terms contained therein.¹ There was no such vote. Consequently, both agreements are invalid in their entirety. This includes the term requiring that Mr. Lucero be removed as NBHS Principal.

It is concerning that the Board and the District attempted to enter into these settlement agreements in secret, without a vote, and in violation of Oregon's Public Meeting Laws. In fact, during the Board's June 11, 2018 meeting, Board Chair (Alane Jennings) read a statement into the record referencing a Board meeting "last week" where the Board engaged in a discussion of the settlements with Hailey Smith and Olivia Funk. The Board Chair stated that Superintendent Yester "consulted both myself and the board vice chair prior to signing the settlement agreement." With this statement, the Board Chair attempts to bless (or approve) the settlement agreement. However, all this statement does is confirm that there was no Board vote approving the settlement and that only the Board Chair and vice chair were involved in the decision to enter into the agreement. Oregon law prohibits a school board to reach any "outcome" where a vote is required without an affirmative vote from the majority of Board members on the record *during* the public portion of a Board meeting. To hold any such vote in secret is a direct violation of Oregon law. We have reviewed the District's website and do not see an agenda or meeting minutes from the meeting referenced in the Board Chair's statement.

¹ ORS 332.075 provides that "[i]f a contract is made without the authority of the district Board, the individual making such contract shall be personally liable."

Another recent example of questionable public-meeting conduct by the Board stems from a July 23, 2018, Board work session. The Board Chair ended the meeting by announcing “meeting adjourned”. After attendees left the meeting, the Board Chair reopened the meeting (without legal authority for doing so) and held a vote. After we questioned the District about this incident, the Board decided to invalidate the July 23rd vote and conduct a re-vote at the next regularly scheduled meeting. We are certain that the Board would have let their original vote stand had we not pointed out the violations of law. These examples demonstrate the Board’s willingness to conduct its business in secret, without public knowledge, and outside the bounds of the law.

Breach of Fiduciary Duty and Conflict of Interest

Mr. Lucero was continuously reassured by the District’s attorney, Rebekah Jacobson, that she represented him related to the Oregon Department of Education’s (ODE) investigation and legal action by the American Civil Liberties Union (ACLU). On June 14, 2018, we received a letter from Ms. Jacobson asserting that she, did in fact, serve as Mr. Lucero’s attorney in the underlying action against the District.

Ms. Jacobson repeatedly told Mr. Lucero that she represented him, that she would fight for him, and continually assured him that he would not lose his job as NBHS Principal. Ms. Jacobson would also tell Mr. Lucero that the worst possible outcome that he could receive, as a result of ODE’s investigation of the District, is additional training. Mr. Lucero’s wife was present during some of these meetings.

Ms. Jacobson knew that the ODE’s legal action against the District was just getting started. She also knew that the ACLU threatened severe action against the District if the District refused to punish Mr. Lucero and remove him as principal. In fact, it was on the very day that the ACLU leveled its threats against the District, that Ms. Jacobson, working in concert with the District, advised the District to protect itself by entering into a settlement agreement with Olivia Funk and Hailey Smith. Ms. Jacobson had two clients in the matter – the District and Mr. Lucero – and a clear conflict situation. Ms. Jacobson had an ethical obligation to immediately declare the conflict to Mr. Lucero, to withdraw as Mr. Lucero’s attorney, and instruct Mr. Lucero to seek his own counsel in order to protect his legal rights. Ms. Jacobson did not take any such action. Instead, she recommended that Superintendent Yester sign the proposed settlement agreements which resulted in direct and irreparable harm to Mr. Lucero.

Ms. Jacobson’s representation of one client (the District) adversely affected the interests of another client (Mr. Lucero). Under the circumstances, Ms. Jacobson could not ethically represent the interests of both Mr. Lucero and the District. Furthermore, Superintendent Yester, Brad Bixler (District HR Director/Communications Specialist), and others acted individually, and in concert with Ms. Jacobson, to prevent Mr. Lucero from adequately defending himself. Mr. Lucero repeatedly received directives from District staff, Ms. Jacobson, and Brad Bixler prohibiting him from speaking to the media and otherwise defending himself publicly. A fiduciary duty was owed to Mr. Lucero and it was breached.

Targeted Discipline, Demotion without Due Process, Demotion in Violation of Contract

Approximately two years ago, Mr. Lucero offered [Student 3] to read a passage from the Bible as a teaching moment in response to [Student 3's] screaming and use of foul language at school. In her own words, [Student 3] explains that reading the Bible passage was in no way about her sexuality and that she has never identified with the LGBTQ community. [Student 3] also stated, among other things, that Mr. Lucero is caring and patient and that she may not have graduated from high school were it not for Mr. Lucero.

Superintendent Yester learned about this incident shortly after it occurred and did not voice any concerns about it until two-years later (presumably after the ACLU complained). On April 18, 2018, Superintendent Yester disciplined Mr. Lucero, over the incident, by issuing a Letter of Reprimand warning that any additional violations may result in termination of employment. On April 19, 2018, Mr. Lucero responded to the Letter of Reprimand stating, among other things, that he offered the Bible passage as a non-punitive option to foster a positive learning experience for the student. Mr. Lucero offered [Student 3] several different options as “a teaching moment” to address her conduct. Mr. Lucero was, in fact, not proselytizing or attempting to advance a religion. Mr. Lucero further explained that, as a learning tool, he could have easily offered another source such as the Tao Te Ching, the Koran, or writings of other philosophers such as Buddha or Confucius.

It is worth stating, that the facts surrounding [Student 3] do not demonstrate any clear violation of law or policy against proselytization. Superintendent Yester also did not believe that any laws or policies were violated and agreed with Mr. Lucero that the Bible was not used to promote religion, but rather, to assist in understanding the effects of certain behaviors. If he believed otherwise, then Superintendent Yester failed in his obligation to immediately reprimand Mr. Lucero and to immediately report this violation to the Board, and to the Teachers Standards and Practices Commission (TSPC) two years prior, when he became aware of the incident.

In any event, the incident regarding [Student 3] is the only time Mr. Lucero has been reprimanded by the District, as evidenced by Mr. Lucero's unblemished personnel file. Moreover, there are no negative evaluations of Mr. Lucero's performance by Superintendent Yester, and there are no improvement plans imposed on Mr. Lucero by the District or the Board. And yet, Mr. Lucero was removed as principal (even though his contract specifically states that he is a principal). There was no progressive discipline instituted against Mr. Lucero prior to this demotion. Conversely, at the same time that Mr. Lucero was punished and demoted, Ralph Brooks (the District's Title IX administrator who failed to properly investigate and timely report accusations of discrimination), was promoted to principal. We are also investigating whether any other District official was disciplined besides Mr. Lucero.

It also appears that the Board held several executive sessions (February 26, 2018, March 22, and May 24) to consider the dismissal or disciplining of an employee who does not request an open hearing pursuant to ORS 192.660(2)(b). Although executive sessions are not open to the public and are secret, we assume that none of these executive sessions pertain to Mr. Lucero because he was never offered the opportunity to participate in or request an open hearing to respond to the accusations brought to the Board. If the Board did discuss Mr. Lucero in a manner contrary to law, we will add this violation law to the many already raised in this letter.

Damage to Reputation, Honor, Integrity, Stigmatization of Mr. Lucero

The Board Chair, the Board, the District, and Rebekah Jacobson, knew that the accusations of LGBTQ discrimination did not apply to Mr. Lucero and that the District was, in fact, the subject of an ODE investigation for, among other things, failure to properly investigate and report accusations of discrimination. An August 23, 2017 letter from Rebekah Jacobson to the ODE illustrates just some of the complaints made against the District. There are other complaints against the District that include, among other accusations, racial discrimination.

On May 21, 2018, the ACLU Director, and Rebekah Jacobson, exchanged e-mails whereby the ACLU threatened the District that if it refuses to punish Mr. Lucero, the District will face continued legal action (including losing its school funding) for the District's own unlawful conduct. A settlement agreement was signed that very day between the District and Ms. Funk, and Ms. Smith. Per the agreement, Mr. Lucero was removed as NBHS Principal. A press release was immediately issued by the ACLU stating, in part, that Ms. Funk and Ms. Smith suffered anti-LGBTQ harassment and discrimination and that Mr. Lucero was "removed from his job". The ACLU Director added that "[w]ith Mr. Lucero gone, LGBTQ students can finally come out of the shadows". The District followed with a press release announcing that the District is "**pleased**" to have reached a resolution of the students' complaints and that the District "will make personnel changes" including reassigning Mr. Lucero as principal.

By entering into the settlements with the ACLU to punish only Mr. Lucero, and then claiming its pleasure with that outcome, the District essentially confirmed the accusations against Mr. Lucero, thus irreparably and permanently damaging him. Additionally, as stated above, on June 11, 2018, the Board Chair (Alane Jennings) read a statement into the record giving legitimacy to an unlawful settlement agreement and further stigmatizing Mr. Lucero. The District unlawfully exchanged Mr. Lucero's reputation, profession, and health, for protection against its own misdeeds, all while pretending that the District and its attorneys were representing Mr. Lucero's interests. The District then compounded the damage to Mr. Lucero by repeatedly instructing him not to say anything to defend himself. As a result of all of the District's actions, Mr. Lucero was subjected to hatred, contempt, and ridicule. Moreover, the District's actions diminished the esteem, respect, goodwill and confidence in which Mr. Lucero was held.

Please take notice that Mr. Lucero reserves the right to proceed against the District, the Board, and Rebekah Jacobson *in their individual and official capacities* (and their agents) for violations of Mr. Lucero's State and Federal constitutional rights, all actions available at common law, and applicable State and Federal statutory violations. Mr. Lucero's claims include, but are not limited to, breach of contract, deprivation of liberty and property interest without due process under 42 USC § 1983, damage to reputation, anxiety, humiliation, embarrassment, emotional distress, and loss of career advancement. Mr. Lucero further gives notice of his intent to seek monetary and injunctive relief, punitive damages, attorney fees, and all other available remedies provided by law.

/s/ Shannon N. Rickard

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June 12, 2018

Via E-mail: Alane Jennings, Board Chair (ajennings@socc.edu); Samantha Pierson (sami.pierson@gmail.com); John Buckley (cwo2@live.com); Shira Nelson (dschira11@gmail.com); Kurt Brecheisen (kdbdab@charter.net); Julianna Seldon (juleseldon@gmail.com); and Prece Fountain-Reid (pfountainreid@gmail.com)

Board of Directors
North Bend School District #13
1913 Meade St.
North Bend, OR 97459

Re: Bill Lucero, North Bend High School Principal

Dear Board of Directors:

Our firm represents North Bend High School (NBHS) Principal Bill Lucero. We are in the process of reviewing the Oregon Department of Education's (ODE) investigation and subsequent findings against the North Bend School District (District), and the American Civil Liberties Union's (ACLU) complaints and subsequent actions. More importantly, we are carefully reviewing and analyzing the District's actions in response to the ACLU and ODE. It is important to note, at the outset, that we are deeply troubled by the District's actions. The more documents we review and analyze, the more concern we have that the District's actions were unlawful and have significantly and irreparably harmed Mr. Lucero.

In the last few months, Mr. Lucero has suffered an onslaught of defamatory statements, which paint Mr. Lucero as, among other things, a racist, a homophobe, and an elitist. These accusations have all but destroyed Mr. Lucero personally and professionally. The impact of these accusations is clear and severe and also deeply felt by Mr. Lucero's family, many of whom, like Mr. Lucero, have devoted their lives to service to the South Coast.¹

¹ The accusations leveled against Mr. Lucero are also, unfortunately, used as an indictment against the South Coast community as a whole. We have read national and international articles where the news stories and accompanying comments paint the South Coast as a hot bed of intolerant, backwards, and hateful people. It is not surprising that during a recent baseball play-off game, parents from the opposite team waived rainbow flags and screamed chants (about being homophobic) against NBHS parents who traveled to support their baseball team.

It is most troubling that the District acted to damage Mr. Lucero with knowledge that allegations against Mr. Lucero were false. The District knew or should have known that the accusations made by the ACLU were false, inaccurate, and misleading. Likewise, the District knew or should have known that ODE conducted an unfair, incomplete, and biased investigation motivated by political outcomes instead of a search for the truth. When given the opportunity to set the record straight and to challenge the allegations, the District chose to unlawfully sacrifice Mr. Lucero in an attempt to give the District a free pass on allegations of its own unlawful actions. By signing a written settlement agreement to remove Mr. Lucero as NBHS principal, the District punished Mr. Lucero without just cause and without due process.

Mr. Lucero was reassured by the District that the District was acting in Mr. Lucero's best interests. In fact, based on statements and actions of District representatives and the District's attorney, Mr. Lucero believed that the District's attorneys represented him, as well as the District. Mr. Lucero was invited to participate in strategy discussions with District representatives and the District's attorney. A fiduciary duty was owed to Mr. Lucero. The District and the District's attorneys worked in concert with each other to violate Mr. Lucero's rights in an effort to protect the District. The injury to Mr. Lucero was compounded by the directives from District staff, District attorneys, and Brad Bixler (District HR Director/Communications Specialist) prohibiting him from defending himself publicly. One only need read the ACLU's press release (issued immediately after signing the settlement agreements with the District) to understand the impact and the damage this would cause to Mr. Lucero. The first paragraph of the release reads as follows:

The American Civil Liberties Union Foundation of Oregon announced today that settlements had been reached on behalf of current and former North Bend High School students Liv Funk and Hailey Smith who suffered anti-LGBTQ harassment and discrimination from both students and staff. The settlements remove Principal Bill Lucero from his job and require that the school district work with the American Civil Liberties Union Foundation of Oregon (ACLU of Oregon) to develop policies and training to prevent future discrimination. The district will remain under Oregon Department of Education supervision for five years.

The press release also included a quote from the ACLU's director who stated "[w]ith Mr. Lucero gone, LGBTQ students can finally come out of the shadows". Not to be outdone, Brad Bixler followed with a press release announcing that the District is **"pleased"** to have reached a resolution of the students' complaints. Mr. Bixler added that the District "will make personnel changes" including reassigning Mr. Lucero as principal. Not surprisingly, many NBHS educators and students took immediate offense to the District's insensitive and unwarranted declaration of being "pleased". The District did not offer Mr. Lucero the courtesy of reviewing the press release prior to its issuance, and continued to reaffirm the District's position that Mr. Lucero was not allowed to speak out publicly to defend himself.

By entering into the settlements with the ACLU to punish only Mr. Lucero, and then claiming its pleasure with that outcome, the District essentially confirmed the accusations against Mr. Lucero, thus irreparably and permanently damaging him.

In the event there are any doubts about the harm the District has caused, we include a sampling of some of the headlines readily available to anyone:

- “Principal ousted after LGBTQ students punished with Bible study, threatened with hell”. May 23, 2018, *The Sacramento Bee*. The article states that “[t]he principal of a rural Oregon high school who forced an LGBTQ student to read the Bible passages as a form of punishment will step down as part of a settlement with the American Civil Liberties Union.”
- “Oregon principal ousted for making LGBTQ students read Bible as punishment.” May 21, 2018, *The Oregonian*.
- “Oregon demite director de escola que castigava gays com leitura da Biblia.” Translation: “Oregon waives school director who chastised gays with Bible reading.” May 23, 2018, *Paulopes Brazil*.

The headlines, above, provide a perfect illustration of everything wrong with the “case” against Mr. Lucero. That is, that the accusations highlighted in the headlines, like all other accusations against Mr. Lucero, are either false, misleading, or inaccurate. As you know, it was Olivia Funk and Haley Smith² who made the accusation – referencing an incident with “Student 3” – as proof that Mr. Lucero forced LGBTQ students to read from the Bible as punishment.

Mr. Lucero has openly discussed this accusation (including with Superintendent Yester) and consistently explained that [Student 3] was sent out of class and into Mr. Lucero’s office for being disrespectful, defiant, and for using foul language. [Student 3] continued to swear while in Mr. Lucero’s office. That type of behavior warranted lunch detention and/or school suspension. In an effort aimed to provide a teaching moment, and with the student’s mother present, [Student 3] was given an option (instead of detention/suspension) to read a passage from the Bible referencing disrespectful, foul, and vulgar language. The issue of LGBTQ was not relevant to or part of the conversation. In fact, there was never any inference to LGBTQ, either directly or indirectly.

[Student 3] confirms Mr. Lucero’s account of what occurred (Letter Attached, **emphasis added**), which states in relevant part:

I attended north bend high school between 2015-2017. I am the student that is said to have been forced to read the bible. In approximately 2016

² Olivia Funk and Haley Smith participated in news stories where their names and their pictures were published. We are not aware of any effort by either Ms. Smith or Ms. Funk to keep their names anonymous.

* * * I was pulled out of the hallway for using foul language and yelling. My mother was called and came to the school. I was taken to Mr. Lucero's office to discuss my behavior. I was asked to read a verse from the bible that had to do with the slip of your tongue and how words affect people. **This incident in no way was ever about my sexuality. I am not now or have ever identified with the LGBTQ community.** My mother was present and in agreement with the reading. This was not forced upon me, I was asked to read and I agreed to the reading of the passage.

Mr. Lucero was always patient with me and my bad behavior. He was an important part of me finishing high school and receiving my diploma. * * * I truly believe if Mr. Lucero had not been in my life I might not have graduated. He was always a patient and caring man. He was an important part of my high school experience and my future. [Typographical and grammatical errors in original].

It is concerning that Superintendent Yester learned about this incident shortly after it occurred in 2016, and yet did not voice any concerns about it until recently (presumably after the ACLU complained). On April 18, 2018, Superintendent Yester issued a reprimand letter to Mr. Lucero.

While the context and characterization of the incident has been completely distorted, Mr. Lucero never denied that the incident (as he and Student 3 describe it) occurred. Nonetheless, on August 23, 2017, the attorney for the District incorrectly asserted to ODE that Mr. Lucero denied this accusation, thereby damaging Mr. Lucero's credibility with ODE and further damaging Mr. Lucero's reputation.

Additional examples of false, misleading, or inaccurate accusations are that Brody Lucero almost hit two LGBTQ girls with his car while yelling a homophobic slur out the window and the assertion that swim team members were lined up for a team picture from light to dark skin.

Brody Lucero: On or about November 1, 2016, it came to Mr. Lucero's attention that Haley Smith accused Brody Lucero (Mr. Lucero's son) of a past alleged transgression. Because the alleged incident involved Mr. Lucero's son, Mr. Lucero immediately reached out to Ralph Brooks and Tiffany Rush (District's Title IX investigators) to investigate the matter. On November 3, 2016, Mr. Brooks and Ms. Rush spoke with Haley Smith who alleged that Brody Lucero yelled a homophobic slur as he drove very close to her and Olivia Funk. Haley Smith stated that the incident occurred during the previous school year and that she had not previously brought it to anyone's attention. Haley Smith also told Mr. Brooks and Ms. Rush that she did not want to pursue this complaint. There were no other witnesses to this incident. Mr. Brooks and Ms. Rush asked Mr. Lucero to speak with his son. Mr. Lucero complied with the request and spoke with Brody Lucero, who adamantly denied this incident ever happened. As Title IX investigators, Mr. Brooks and Ms. Rush report directly to Superintendent Yester and not to Mr. Lucero.

Many months later, after the District failed to respond to Haley Smith's complaint in a timely manner, ODE performed its own investigation of this incident. ODE interviewed Olivia Funk and Haley Smith, but surprisingly, made no request to speak with Brody Lucero. How ODE made factual findings about this incident without bothering to interview Brody Lucero is baffling and, is a move that certainly foreclosed any opportunity for the ODE investigator to assess the credibility of all parties involved.

African American Swimmer was forced to line up with his swim teammates from lightest to darkest color: As the District knows, the alleged victim of this accusation (and several of his teammates) responded publicly denying this accusation happened. The alleged victim explained:

* * * you guys need to get your facts straight because you're getting your information based off a picture. Before that picture was taken, I was the photographer, and I was just taking pictures of everyone posing. Then my coach, Sasha Trichler, told me to join the group picture. We were absolutely not directed to line up according to skin color. I just happened to put myself on the end of the line. I'm not a victim. I'm just a swimmer who enjoys being part of his swim family.

We are aware of additional accusations, similarly apparently untrue, not addressed here. We are more than happy to discuss these with you at any time. As stated previously, as each day passes we obtain more information refuting the reported accusations and supporting Mr. Lucero's conduct as NBHS principal. The District knows there is no substance to the accusations against Mr. Lucero. It will be interesting, however, to evaluate whether the District appropriately followed its own processes, policies, and protocols.

Threats by the ACLU caused the District to unlawfully punish Mr. Lucero in order to protect itself

On May 21, 2018, Mat dos Santos, ACLU Director, and Rebekah Jacobson, the attorney for the District, exchanged e-mails whereby the ACLU threatened the District that if it "says no" to the form of punishment demanded by Olivia Funk, the District will face untold misery (including losing its school funding). The ACLU reminded Ms. Jacobson that the Superintendent and the District knew about Mr. Lucero's use of the Bible (in reference to the accusation regarding "Student 3", discussed above) and that saying "no" to the ACLU will be "costly" for the District. The ACLU made it clear that all the District needed to do is punish "one person" (in reference to Mr. Lucero) in order for the District's problems to go away. In relevant part, the ACLU's threat is as follows:

It is especially baffling because that one person [Mr. Lucero] is the person who admitted to violating an Oregon Law [accusation regarding the Bible], ***a fact made worse for the District that the superintendent admitted to knowing.*** That one violation of law, that is already admitted will literally result in the automatic withholding, probably without return, of the about

\$32 million of its \$38 million budget. They [District] just have to lose on the proselytization law to lose all of their state funding. * * *

I think it is time to us to be real about what is at stake here. If the district is legitimately interested in its students and the rest of its staff, they [the District] desperately need to avoid a hearing ruling against them. And given how easy it is to lay out the district's violations based on admissions by the District and a months-long ODE investigation, the only way the District can avoid a finding that they violated anti-discrimination laws is to settle this case. And if we go to hearing and win or lose, I will undoubtedly file 1983 litigation. I have no doubt you appreciate just how costly this will be for the District. [Typographical and grammatical errors in original].

The settlements between the District and Hailey Smith and Olivia Funk were signed that very day, immediately followed by the ACLU's news release. Mr. Lucero's life changed forever on May 21, 2018. Mr. Lucero spent 31 years building a stellar reputation as an educator in the District and a respected community member, and the District obliterated everything he built by betraying him to save themselves, and agreeing to allow two teenage girls to dictate Mr. Lucero's future. The District unlawfully exchanged Mr. Lucero's reputation, profession, and health, for protection against its own misdeeds, all while pretending that the District and its attorneys were representing Mr. Lucero's interests. The District then compounded the damage to Mr. Lucero by repeatedly instructing him not say anything to defend himself.

Until these recent events, Mr. Lucero has had an impeccable and unblemished career. Mr. Lucero firmly believes that public instruction is his calling and has poured his heart and soul into his profession. Throughout his service to the District, Mr. Lucero has maintained the highest level of integrity and professionalism and has demonstrated true passion for helping ALL District students succeed irrespective of race, gender, socioeconomic status, or identity as LGBTQ. He has received many letters of support from a diverse array of students, teachers, and parents. A Facebook page "I Stand With Bill" was created and is followed by 790 people so far. A common thread relayed from Mr. Lucero's supporters is the fact that he is a caring and devoted principal, who treats every student with genuine respect and care. In one such letter of support, one of the District's most respected teachers, Steven Greif writes, in part, the following (Letter Attached):

I am disheartened that Mr. Lucero has not been given an opportunity to fully explain his version of recently alleged civil rights violation. The public has only been told one side of the story and, shockingly, the story is filled with untruths. It seems to me and many others that the school district made a rash decision to settle a potential lawsuit by throwing a valued employee under the bus.

Mr. Greif continues by detailing examples where Mr. Lucero has affirmatively demonstrated his commitment to treating all students with “respect and justice.” Also attached, is a letter from William Berrian (District Psychologist) who writes:

Bill Lucero is very emotionally transparent and visibly passionate in his dedication to the students of North Bend High School. I have found that Bill is a fearless leader who will engage any fellow administrator, teacher, parent, student, in a quest to maintain a safe, caring, structured, and orderly school environment. And while he is dedicated to the school environment as a whole, I have personally witnessed countless situations wherein he is a champion for individual students, regardless of cultural background, gender-identity, sexual preference, or any other minority status self-identification.

These letters serve to confirm countless other testimonials about Mr. Lucero’s character. It is no surprise that Mr. Lucero received a standing ovation during NBHS’ graduation ceremony this past Friday. Clearly the community recognizes how Mr. Lucero has been wronged, and it is time for the District to do the same.

There was no lawful basis for removing Mr. Lucero as NBHS principal, and Mr. Lucero wishes to remain principal at NBHS. We are currently evaluating any and all claims against the District for damages under state and federal law. Mr. Lucero’s damages may include economic and non-economic damages. Mr. Lucero has suffered, among other things, severe emotional distress, mental anguish, the effects of stress on his mental and physical health, damage to his relationships, and damage to his reputation. We are prepared to pursue all claims Mr. Lucero may have against the District, and should litigation become necessary, we will seek attorneys’ fees and costs.

If we do not hear from the District in the next two weeks, we will proceed with the necessary steps to litigate this matter.

At this time, we are also requesting the following documents:

- A complete and certified copy of Mr. Lucero’s personnel file, specifically including, but not limited to, any performance evaluations provided to Mr. Lucero in his role as NBHS principal;
- A copy of the District’s file with respect to the ACLU’s accusations against Mr. Lucero and the District; and,
- A copy of the District’s file with respect to the ODE’s investigation of accusations against Mr. Lucero and the District.

Sincerely,

/s/ Shannon N. Rickard

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/s/ Roland Iparraguirre

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August 16, 2018

Via E-mail Only: rjacobson@ghrlawyers.com

Rebekah R. Jacobson
Garrett Hemann Robertson PC
Willamette Professional Center
1011 Commercial St. NE

Re: Response to Fee Statement (Letter dated July 30, 2018)

Dear Ms. Jacobson:

This letter responds to your letter dated July 30, 2018 asserting that it will take the District 73 hours, at a cost of \$4,896.50, to gather, review, and redact the records the District was ordered to produce. We acknowledge that the District may establish fees “reasonably calculated” to reimburse the District for its “actual cost” of making public records available. ORS 192.324. However, the amount of the fee the District has asserted in this case in comparison to the nature of the request suggests that the true purpose of the asserted fee is to constructively deny the request, rather than to recoup the District’s actual costs, which is not permitted.

In particular, we are perplexed as to why the District estimates that it will take the District IT Director 35 hours to run a search for records related to the District’s May 21, 2018 settlements and separately records that mention Bill Lucero. Our requests cover an extremely limited period of time and information exchanged between very few people. Given the limited nature of the request, it does not seem possible that it would take anyone 35 hours to run the required searches. It also seems excessive that the Board Secretary needs 32 hours to gather the records. According to the District’s statement, the review for privilege and redaction of protected information will be done by an attorney, not District staff. Thus, it should not take the Board Secretary 32 hours to gather the records, especially when the majority of those records should be identified from the IT Director’s search.

It also is disconcerting that the District is estimating any costs at this point, given the District’s asserted position all along that after reviewing the records, the District believed certain exemptions applied. It is clear now that the District claimed exemptions to release without even bothering to look to see what responsive records exist. This fact is further illustrated by the email sent to District Attorney Paul Frasier from Nancy Willard,

which was forwarded to our firm and to you, documenting correspondence with the District on a matter to which the District claimed there were no records. Obviously, we cannot rely on the District's previous statements that with respect to certain requests, the District provided everything it had or there were no responsive records. Thus, we hereby renew all the requests we thought were resolved, and ask that the District identify any responsive records and provide them to us.

With respect to the current cost estimate, we ask that the District review the estimate and explain in a satisfactory way why the IT searches and the Board Secretary gathering records are expected to take so long. If there is an unforeseen and legitimate reason why the estimated time is so high, we may be able to work with you to narrow the request.

Sincerely,

/s/ Shannon N. Rickard

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