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September 14, 2023

SENT VIA EMAIL

Ms. Karla Silvestre
President, Montgomery County Board of Education
Carver Educational Services Center
850 Hungerford Drive, Room 123
Rockville, MD 20850

Re: September 8, 2023 Independent Investigation Report

Dear Ms. Silvestre:

As you know, the Board of Education of Montgomery County (the “Board”) engaged Jackson Lewis P.C., (“Jackson Lewis”) to conduct a full and complete independent investigation regarding the processes surrounding the June 2023 promotion of Dr. Joel Beidleman to Principal of Paint Branch High School (“Paint Branch HS”). Specifically, the Board requested that Jackson Lewis examine (1) whether, prior to the promotion, Montgomery County Public Schools (“MCPS”) management received complaints or were otherwise aware of complaints containing allegations of misconduct against Dr. Beidleman, (2) whether any such complaints were appropriately investigated pursuant to MCPS policies and guidelines, (3) what, if any, actions MCPS took in response to any such complaints, and (4) whether these complaints impacted the promotional process.

On September 8, 2023, Jackson Lewis submitted a comprehensive final written report (the “Report”) and a verbal report to the Board which contained its findings, analysis of the facts and relevant exhibits to the Report. Pursuant to the Board’s request, Jackson Lewis did not provide any recommendations for subsequent actions based on the factual findings or opine on remedial measures to address any procedural issues.

As requested, this letter provides a general summary of the findings concerning the promotion process and related findings that the Board can release, consistent with the requirements of the Maryland Public Information Act (“MPIA”). The MPIA, specifically, Md. Code Ann., Gen. Prov. § 4-311(a), requires a custodian to “deny inspection of a personnel record of an individual, including an application, a performance rating, or scholastic achievement information.” Records relating to the discipline of an employee or any other matter involving the status of an MCPS employee are subject to the MPIA. Here, the Report contains personnel information about MCPS employees, including those who may be subject to discipline based on the findings in the Report.

The requirements of the MPIA restrict the Board's ability to release confidential personnel information contained in the Report.

To achieve the tasked investigation objectives, Jackson Lewis attorneys Donald E. English, Jr., Esq., Kathleen A. McGinley, Esq., and Tonecia R. Brothers-Sutton, Esq., (the "Investigators") identified individuals associated with MCPS, at any level - current or formerly employed - who knew or should have known about any relevant complaints, the response to each and/or who were involved in the promotion process. The Investigators identified and interviewed 30 current and former employees. The Board was also interviewed on August 25, 2023 and September 1, 2023. Some of the witnesses were interviewed more than once as additional and/or conflicting information was learned during the investigation. In total, the Investigators completed over 59 interviews of key MCPS personnel from August 11 to September 8, 2023. All of these interviews related solely to Dr. Beidleman's promotion. The Report does not analyze the merits of any relevant complaints and/or allegations.

The Investigators also identified and reviewed documents related to any complaints relevant to the investigation, MCPS' processes regarding complaint investigations, any investigation performed by MCPS and the promotional process in June 2023. These documents were collected from the witnesses directly, MCPS departments, and from MCPS' electronic systems and hardware. The Investigators, along with their Jackson Lewis Electronic Stored Information team, collaborated with the MCPS Information Technology team to identify storage areas where relevant electronic documents and communications were stored on MCPS' network. Employing eDiscovery applications and third-party software, electronic files were extracted from the accounts of multiple custodians. Over 30,000 documents were collected from the MCPS email accounts, and text message discussion threads were collected from 10 MCPS cellular phones. These files included documents from both Microsoft and Google accounts, and text message threads from custodians' cellular phones. The Microsoft and Google account files were extracted from MCPS' network and transferred to a third party Electronically Stored Information (ESI) vendor. The files were processed to extract file contents and metadata, and the documents were hosted on an ESI platform that the Investigators accessed to perform their review.

The Investigators kept the Board apprised of the status of the investigation and were given complete independence to schedule and conduct interviews as needed and to collect documents that the Investigators identified. The Investigators prepared the Report and the findings without input, influence, or interference from MCPS or the Board.

The findings that are releasable pursuant to the MPIA are as follows:

- Dr. Beidleman was promoted while he was being investigated by MCPS because key decision-makers did not exercise enough diligence to ascertain important details about the investigation. Specifically, multiple members of the administration, who were part of the promotion process, knew that Dr. Beidleman was under an active investigation at the time of his promotion. Those individuals

did not inquire about the specific nature of the allegations against Dr. Beidleman, including their disposition.

- After Dr. Beidleman's promotion, key MCPS leaders failed to take any remedial action and failed to promptly notify the Board once they knew specific details about the allegations against Dr. Beidleman and the disposition of the investigation. Key members of MCPS leadership learned details about the pending MCPS investigation and the disposition of that investigation by July 19, 2023, but did not share that information with the Board until on or about August 4, 2023.
- There is no evidence that the Board was aware of the pending MCPS investigation, the disposition of that investigation, and/or any other allegations relating to Dr. Beidleman prior to its June 27, 2023 promotional decision.¹
- MCPS' promotion process does not have a mechanism to automatically identify whether a candidate for a promotion or a transfer is under investigation.
- All formal complaints² relevant to the investigation were investigated and addressed by MCPS, but there is evidence that MCPS has long-standing practices and processes in place that resulted in anonymous and informal complaints not being formally investigated. Specifically, MCPS did not formally investigate (by interviewing witnesses, interviewing the accused, or rendering a written determination pursuant to its policies) any of the multiple relevant anonymous complaints that it received. Many of those anonymous complaints contained sufficient details to enable MCPS to initiate a formal investigation, pursuant to its policies and procedures for investigating complaints against staff. MCPS similarly failed to formally investigate informal complaints that were brought to it by witnesses that were interviewed in connection with a relevant formal complaint. MCPS typically does not formally investigate these types of informal complaints unless the alleged victim files a formal complaint under its policies.

¹ After searching the MCPS servers and interviewing several witnesses, Jackson Lewis found that neither the Superintendent nor the Board received an alleged May 3, 2022 anonymous email and a May 9, 2022 email from an MCEA representative containing anonymous allegations.

² Generally, to begin a formal investigation of discrimination, harassment or bullying, the complainant must complete a Form 230-39, contact the Department of Compliance and Investigations ("DCI") directly by email or contact their principal or supervisor, if appropriate, who will refer the issue to DCI for review.

These factual findings, along with the factual findings contained in the Report, are not recommendations for corrective actions. However, these factual findings can be used by MCPS to develop a comprehensive corrective action plan.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donald E. English, Jr.", with a stylized flourish at the end.

Donald E. English, Jr.

cc: Kathleen A. McGinley, Esq.
Tonecia Brothers-Sutton, Esq.