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**CONFIDENTIAL REPORT AND RECOMMENDATIONS CONCERNING
JASON VANCE, SUPERINTENDENT OF SCHOOLS, AND THE
E-MAIL INCIDENT OF DECEMBER 10, 2018**

CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION

TO: The Loudon County Board of Education
FROM: Lawrence F. Giordano, Esq.
DATE: March 5, 2019

1) Assignment.

The undersigned is a member of the Knoxville law firm of Lewis, Thomason, King, Krieg & Waldrop, P.C. Chris McCarty, also a member of this firm, serves as counsel to the Board of Education. Because the undersigned is experienced with the representation of public school systems but has had little contact with the Loudon County Board of Education ("Board") or the various actors involved in this matter, I was requested by Mr. McCarty and Board Chairman Craig Simon to act as counsel for the LCBOE for the purpose of conducting an inquiry into and advising the Board concerning differences that had arisen following the sending and subsequent public circulation of an e-mail from Dr. Jason Vance ("Dr. Vance"), Superintendent of Schools, to Loudon High School Principal Cheri Parrish ("Principal Parrish") on or about December 10, 2018. The subject e-mail related to and complained about Loudon County High School boys' varsity basketball coach and teacher, Joshua Graves, and his treatment of [REDACTED]

While the subject email has been widely and publicly circulated, it will not be reproduced with this Report in deference to its status, in the opinion of the undersigned, as a confidential educational record protected by the Federal Educational Rights and Privacy Act ("FERPA"), 20 USC §1232g.

The specific tasks assigned to me by the Board were as follows:

- a) to attempt to determine whether the Superintendent of Schools acted in a manner inconsistent with his employment responsibilities such that he should be dismissed for cause or subjected to any other form of employment discipline by his employer, the Board;

- b) to attempt to determine whether any other employees of Loudon County Schools acted in manners inconsistent with their employment responsibilities regarding the subject incident such that they should be dismissed for cause or subjected to any forms of employment discipline; and
- c) to make any other recommendations to the Board as are deemed necessary and appropriate related to and/or stemming from the above-referenced incident.

2) Investigative Overview.

The undersigned's law firm promptly retained the services of an independent law firm to perform a factual investigation into the actions of Dr. Vance as they related to Loudon High School basketball coach Joshua Graves ("Mr. Graves") and to make recommendations concerning what, if any, action should be taken if misconduct by any person was discovered.

In conducting this investigation, numerous documents were reviewed, including the Board's Policies, Loudon County Schools' Employee Code of Conduct, Loudon County Schools' Employee Handbook, numerous pages of correspondence sent to members of the Board concerning the subject issue (predominantly anonymously and without any indication of identified sources), and, of course, the December 10, 2018 e-mail at the center of the controversy from Dr. Vance to Principal Parrish, principal at Loudon County High School (the "E-mail"). Additionally, multiple interviews were conducted by the investigators with employees of Loudon County Schools and other persons who were reported to be familiar with the E-mail situation, Dr. Vance, and/or Mr. Graves. Finally, a school computer search was conducted to determine whether it was possible to discover who wrongfully published or released the FERPA protected E-mail to members of the public.

3) The Incident(s).

The situation triggering this dispute was initially thought to have originated with the E-mail sent from Dr. Vance to Principal Parrish on December 10, 2018, and related to Mr. Graves' conduct as the basketball coach on that evening as well as his conduct throughout the season. Of note, it subsequently became apparent that the subject E-mail had been improperly made available to other individuals not employed by the school system. Subsequently, the E-mail was publicly re-published on social media and it was also disseminated by hand at a high school basketball game and in other venues. The publicly disseminated version of the E-mail was modified by adding the word "bullying" in hand writing.

The investigation into the reason for the subject E-mail and its subsequent inappropriate/illegal public release revealed other, earlier, [REDACTED] involvement by Dr. Vance and his wife Amanda Vance ("Ms. Vance") concerning [REDACTED] sports experiences at Loudon County Schools. Such earlier incidents, although complicated, may well have set the stage for the unfortunate situation that developed between Dr. Vance and Mr. Graves, which ultimately led to the sending of the E-mail (and to this investigation).

a) Events preceding the E-mail.

The first incident reported by the investigators involving a [REDACTED] complaint by Dr. Vance with regard [REDACTED] occurred on or about December 12, 2016, at Philadelphia Elementary School. At that time, [REDACTED] of the basketball team coached by Jeremy Collins ("Mr. Collins").

[REDACTED] Dr. Vance and Ms. Vance allegedly approached Mr. Collins concerning his decision [REDACTED]. It was reported that, during the post-game confrontation, the Vances told Mr. Collins - in their opinion - his decision [REDACTED] was "sorry." When the reason behind benching [REDACTED] was explained, Mr. Collins was told that, while [REDACTED] conduct had been inappropriate, so was the decision [REDACTED]. Soon afterwards, Dr. Vance actually apologized to Mr. Collins for the confrontation and told him that he should not have approached him in the manner he had, but that the decision [REDACTED] was still "sorry."

The next day, Ms. Vance e-mailed the Middle School's assistant principal requesting a meeting regarding the incident. At the meeting, the incident was discussed, [REDACTED] Ms. Vance allegedly stated that Mr. Collins showed too much favoritism toward the 8th grade team members.

Other similar instances of [REDACTED] confrontation by the Vances with athletic coaches were reported involving the middle school baseball team.

The current situation at Loudon County High School may actually have roots earlier in the academic year when Dr. Vance allegedly began attending closed basketball practices. There is disagreement over how many practices were attended. Dr. Vance states that it happened only once and was work-related. Mr. Graves claims that it happened three times between June and November of 2018, the first time being on June 1, 2018. Regardless, Mr. Graves was not appreciative of Dr. Vance's attendance at the practices.

On October 29, 2018, a mandatory meeting was held for the parents of the basketball team. Dr. Vance attended this meeting. At the meeting, the expectations of the team were discussed. A Parent/Player Contract was also discussed. The Parent/Player Contract was signed by Dr. Vance, Ms. Vance [REDACTED]. After the mandatory parent meeting, Dr. Vance asked for a private meeting with Mr. Graves.

The next day, at 2:30 pm on October 30, 2018, Dr. Vance met privately with Mr. Graves in Mr. Graves' office. At this meeting, the player expectations were again discussed as well as whether the coach's policies were fair [REDACTED]

Nothing was resolved and the meeting ended.

During the middle of November 2018, Dr. Vance texted Athletic Director Ronald Roberts ("Mr. Roberts") to let him know that he wanted a meeting with Mr. Roberts regarding some concerns related to the boys' basketball team. Sometime after the text message, Mr. Roberts met with Dr. Vance. Dr. Vance had a list of concerns, including:

[REDACTED] that Dr. Vance thought Mr. Graves wasn't making a sound decision regarding the varsity player rotation; and that Mr. Graves was trying to please too many people. Mr. Roberts told Dr. Vance during this meeting that he would go back and talk to Mr. Graves.

On November 14, 2018, Mr. Roberts met with Mr. Graves and informed Mr. Graves that Dr. Vance had concerns [REDACTED] and Mr. Graves' overall management of the basketball team.

On November 16, 2018, a meeting was held between Dr. Vance, Ms. Vance, Mr. Roberts and Mr. Graves. During this meeting Dr. Vance expressed his displeasure regarding the rotation schedule and [REDACTED]

[REDACTED] The resolution reached during this meeting was to continue with the rotation schedule until Christmas, and that at that time Mr. Graves would pick one player to fill the open spot. Mr. Graves informed the Vances during this meeting that one of the spots in the rotation belonged to [REDACTED] varsity player, and that when that player returned he would get his spot on the varsity team back.

On November 27, 2018, a meeting was held between Dr. Vance, Ms. Vance, and Mr. Roberts. At this meeting the player rotation was discussed. Mr. Roberts told the Vances that the player rotation would continue until December 14 and then one player would be chosen to fill the varsity spot.

b) The E-mail.

The facts surrounding the sending of the E-mail begin on December 10, 2018. Around 9:00 p.m., Mr. Graves sent a text message to four members of the Loudon County junior varsity basketball team who were participating in a scheduled rotation with the varsity team which allowed two of them at a time to dress out (and sit on the varsity bench) for basketball games. The text informed the four players that a varsity player [REDACTED] had been cleared to return to the team, and one of the spots in the rotation was no longer available. This text message informed the players they would continue to follow the rotation schedule, but that only the next in line would be dressing out and the second player would have to wait until the next game. [REDACTED]

On December 10, 2018, at around 10:21 p.m., after learning of the text message to [REDACTED] Dr. Vance sent a text message to Mr. Graves questioning the text message sent to [REDACTED] When Mr. Graves did not respond to Dr. Vance's text message, Dr. Vance at 11:31 p.m., sent the E-mail described above to [REDACTED]

Subsequently, this E-mail was printed and physically handed out (and/or placed at certain locations within the arena to pick up and view) at the December 14, 2018, basketball game against McMinn Central. The E-mail also thereafter appeared on social media sites such as Twitter and Facebook with the word "bullying" written across the bottom half of the document.

[REDACTED]

[REDACTED]

[REDACTED]

The next morning, December 11, 2018, we now know that Mr. Graves sent the FERPA protected E-mail to three individuals, two of whom were not employees of the school system. Mr. Graves sent the E-mail to his volunteer Assistant Basketball Coach, Ben Curtis ("Mr. Curtis"), who is not employed by Loudon County Schools, at 8:15 am on December 11th. Mr. Curtis, in turn, sent the FERPA protected document to his father, also a volunteer coach (baseball) at the middle school.¹ It is our position that neither of the Curtis gentlemen were appropriate recipients of the e-mail under federal law, as they had no actual need to know the student-related information discussed within the E-mail.

Mr. Graves also sent the E-mail to Assistant Coach Wiley Brakebill, who is an employee of the school system.

It was also discovered during a computer search of Mr. Graves' school computer, that Mr. Graves sent the e-mail to his wife at 7:37 a.m. on morning of December 11th. This actually occurred before he sent it to either of his coaches. Mr. Graves' wife is not an employee of the system, and she had no right to see the e-mail under federal law.²

On December 11, 2018, Principal Parrish was out sick. Mr. Roberts showed Assistant Principal C.J. Martin ("Mr. Martin") the E-mail. After that, Mr. Martin received a call from Dr. Vance. Dr. Vance asked Mr. Martin when Mr. Graves' planning period was and asked Mr. Martin to seek a resolution to the situation. [REDACTED]

That same day, Mr. Martin and Mr. Roberts held a meeting with Mr. Graves because of the E-mail from Dr. Vance. The purpose of the meeting was to find a solution to the dispute [REDACTED], who also is the Superintendent of Schools. The hopeful resolution to the situation was to be that the player rotation schedule would be honored for the game that night. Mr. Martin then called and reported to Dr. Vance that they were going to continue with the dress out protocol for the December 11 game and that new uniforms would be purchased to allow all members of the team to dress out. Dr. Vance inquired whether the next two boys in the rotation would be able to dress out in the following game.

¹ Mr. Curtis's father had reported earlier negative confrontations with the Vances [REDACTED]

² It is important here to remember that FERPA, like HIPAA, does not make exceptions for disclosing protected information to close family members. A medical doctor cannot legally discuss confidential patient information with her spouse, and, likewise, an educator cannot discuss confidential student information with his spouse.

[REDACTED]

That night was the game against Sequoyah High School. At the Sequoyah game, Mr. Graves had a second meeting with [REDACTED]. He stated that he had to be 100% honest with him and that "sometimes things are out of your control." [REDACTED] interrupted him and told him he understood and to go out and win the game. Dr. Vance spoke to Mr. Martin asking what could be done to start rebuilding his relationship with Mr. Graves. Dr. Vance and Mr. Graves shook hands at this game.

On December 12, 2018, Dr. Vance sent out an e-mail to set up a meeting. This meeting was held at the central office. Mr. Graves, Dr. Vance, Mr. Roberts, Mr. Martin, and Mr. Garren were present. Descriptions of what happened at this meeting vary from person to person. All present confirm that the meeting took place. Mr. Martin and Mr. Garren both reported that the meeting was very positive and was about rebuilding the relationship between Mr. Graves and Dr. Vance. Mr. Graves agreed that was Dr. Vance's stated purpose for the meeting, but that he actually perceived the meeting to be more threatening. It is unknown why Mr. Graves felt threatened.

All parties report some variation of the following statement made by Dr. Vance to Mr. Graves during the meeting:

- Mr. Graves states he was told: "I supported you in teaching. There were two PE positions and you are the third. If we can't see eye to eye and get along, then either I can't be the director of schools in Loudon County or you can't be the coach at Loudon High School."
- Mr. Roberts reports that he heard: "Loudon only has two PE positions. I made this position for you and if we can't get past this, this time next year either you or I won't be here."
- Mr. Martin reports that Dr. Vance stated something along the lines of "the high school only qualified for two PE positions and he had been on Mr. Graves' side for a long time because he knew what kind of man he was." According to Mr. Martin, Dr. Vance also stated that "with you here and me here we need to coexist or one of us won't be here. People need to see us shaking hands in public."
- Mr. Garren recalled this statement: "If you are going to continue to be coach and I am going to continue to be director, we have to figure out how to work together."

- Dr. Vance stated that he talked about how there were only two PE positions and that he had advocated for Mr. Graves' position. Dr. Vance agreed he may have said something like, "I feel like everyone in the community should see us supporting each other."

Mr. Garren felt that Dr. Vance was speaking more as a director than a [REDACTED] at this meeting because he was speaking about resolving the issue and not really speaking about the particulars of [REDACTED] basketball experience.

Regardless of the exact statements made, it appears that the meeting effort was well intentioned and designed to repair the relationship between Dr. Vance and Mr. Graves. Multiple attendees confirmed that Dr. Vance told Mr. Graves that their relationship needed to improve.

Then on December 14, 2018, the basketball team played McMinn Central. At this game the rotation schedule was honored and the [REDACTED] player was also allowed to dress out. Unfortunately, Dwayne Arp ("Mr. Arp"), former guidance counselor for Loudon High School, stated that an individual he refused to name brought a copy of the FERPA protected E-mail to Mr. Arp. Mr. Arp further stated that the individual told him there were stacks of the E-mail laying in strategic areas at the game. Bryan Curtis ("Mr. Curtis"), the Philadelphia baseball coach, stated that another person found a copy of the E-mail in the bathroom at this game. Ryan Tullock ("Mr. Tullock") was seen at this game passing a folder to Mr. Graves' father-in-law. When questioned, Mr. Tullock claimed the folder contained schedules and rosters. Regardless of their source, the distribution of the FERPA protected E-mail further inflamed the situation.

On December 18, 2018, Board Member Scott Newman met with Mr. Graves and encouraged him to "go talk it out" with Dr. Vance. Mr. Graves declined to have another meeting with Dr. Vance.

[REDACTED]

The next day, December 20, 2018, the E-mail was published and observed on social media for the first time.

On January 2, 2019, Mr. Martin asked Mr. Graves if he knew how the E-mail became public. Mr. Graves responded that he didn't, and he added that his wife didn't either.

On January 3, 2019, Mr. Graves was approached by an individual at the Greenback basketball game claiming to be have been sent by Board Member Scott Newman. This individual talked to Mr. Graves about speaking with Dr. Vance “man to man.”



Then, on January 11, 2019, Dr. Vance released a Public Statement on Loudon County Schools’ Facebook page.

c) January 11th Public Statement by Dr. Vance.

On January 11, 2019, Dr. Vance released a statement on Loudon County Schools’ Facebook page addressing the current situation (“Public Statement”). That Public Statement referenced the meeting which took place on December 12, 2018, and stated that Dr. Vance and Mr. Graves agreed to move forward coming out of that meeting. Dr. Vance stated he will not apologize for advocating for his family. Dr. Vance then goes on to make statements about the release of a protected and private parent communication and the creation of an “unsafe and unhealthy environment for [his] children.” Dr. Vance apologized in this Public Statement and for how his actions have inflamed the issue and created a distraction for the school system.

4) Investigative Summary, Conclusions and Recommendations.

Understandably, the “situation” referred to throughout the investigation and interviews conducted appear to have changed depending upon who was speaking and what point in time was being referenced. Dr. Vance genuinely believes that the “situation” arose because Mr. Graves failed to choose the players who would fill the final two spots on the varsity roster in an effort to please too many players and their parents. Mr. Graves genuinely believes the “situation” arose because of his decision to return the [redacted] player to the team and do away with one of the rotation slots altogether. Over time, the irritation experienced between the coach and the Vances appears to have focused upon Mr. Graves’ failure to resolve the issues outlined in Dr. Vance’s E-mail to Dr. Vance’s satisfaction. And later, the “situation” took on a decidedly negative bent when the FERPA protected E-mail sent initially by the Vances, as parents to appropriate educators, including but not limited to Mr. Graves, was purposefully published on social media and at a basketball game.

As a result of the information gathered, this writer finds that both Dr. Vance and Mr. Graves are competent and highly respected employees of the school district. By all

accounts, they are respected by their peers and take their jobs/responsibilities very seriously. However, neither Dr. Vance nor Mr. Graves are entirely "innocent" during this dispute---a dispute that has grown far larger than appropriate, and larger than either of them could have ever anticipated or intended. While this writer finds that there would certainly be no legal basis to terminate the contract of either party for cause based on the facts reported, the "situation" reported to this writer is entirely inappropriate, and it must be addressed by the Board with measured discipline and corrective action. My recommendations to the Board follow.

1) RECOMMENDATIONS REGARDING DR. VANCE

Dr. Vance appears to have engaged and participated in a pattern of conduct that, while well-intentioned and possibly appropriate and understandable for a person who is purely a parent, is inappropriate for an individual in his position as the Director of Schools. Dr. Vance has already acknowledged that he probably should not have engaged in the described parental interventions-particularly the sending of the subject E-mail, but he also maintains that he was still right about his underlying position. In this writer's opinion, Dr. Vance is inappropriately confusing and failing to recognize the conflict between his role as a genuinely concerned parent and the fact that he is the Superintendent of Schools, the highest ranking officer in the school system. His parental complaints to his employee subordinates within the school system cannot easily or reasonably be distinguished from inferences of employment action if a disagreement persists. This pattern of conflicting messages can be seen in both the incidents reported at the middle school and in the current matter. It also appears as though both Dr. Vance and Ms. Vance are strong advocates when it comes to sports issues [REDACTED]

[REDACTED] This advocacy can be, and most often is, an admirable parental trait even though it commonly causes great consternation for teachers and coaches. But, with Dr. Vance's superior employment position comes the responsibility for not expressing parental concerns in a manner that might be perceived as a supervisory employment order. This conduct, seen both in the middle school and the high school athletic settings, should not continue.

The Parent/Player Contract for Loudon County High School is very clear that coaches will not discuss playing time with parents. Whether that contractual term is appropriate in a public education setting or not, the contract was permitted to exist by the school's administration and that was a term of the contract entered into by these parties. Despite the agreement articulated in that contract, Dr. Vance required multiple meetings with Mr. Graves regarding [REDACTED] playing time that would have likely been unavailable to another parent. It is not a stretch to reach the conclusion that regardless of how Dr. Vance intended his criticisms of Mr. Graves' work as a coach, his comments could have been and were reasonably perceived negatively by the teacher/coach as carrying with them the inference of a negative employment action.

Dr. Vance's inability to separate his roles as a parent and as an employment supervisor (i.e. Superintendent of Schools) when confronting subordinates is at the crux of the ongoing problem perceived by this writer. This conflict is illustrated by the December 12, 2018, meeting where Dr. Vance clearly stated that he intended to participate in the meeting as a parent, and yet there is disagreement even among other members of the school administration as to whether that meeting, being called in the central office, was a meeting with the Director of Schools or with a disgruntled parent.

This type of behavior reasonably appears to make the employees of Loudon County Schools nervous and unsure what to do when could issues arise concerning [REDACTED].³ Dr. Vance must be more cognizant of this effect and he must take steps to avoid even the perception of using his employment position to influence the outcome of coaching or other decisions involving [REDACTED] in the future.

Of note, it certainly appears as though there was an issue of perception versus intent involved in this dispute because no one who participated in the December 12, 2018, meeting perceived the statements made by Dr. Vance as being threatening, except for Mr. Graves. But therein lies the problem. The expression of the complaints, valid or not, led directly to a reasonable perception by the employee as threatening the employment of Mr. Graves, even though this writer feels comfortable concluding that an employment threat was not intended by the Superintendent. Dr. Vance was there to advocate for [REDACTED], not to fire or suspend a very successful new basketball coach.

Continuing, it must be acknowledged that the statements made in the E-mail could also be perceived as threats, especially those statements regarding further statements made by Mr. Graves during the interview process that he failed to follow through with. Taken in combination, Dr. Vance's references impugning Mr. Graves' honesty, integrity, and character, demonstrate how Dr. Vance's communications could reasonably put a subordinate in an uncomfortable situation. Dr. Vance, as the Superintendent, should always have the authority to discipline and speak candidly with employees when that is so warranted. Here, however, it just seems that Dr. Vance's roles as parent and supervisor became intertwined, though this writer does not believe that was even necessarily intended. As parents, emotion can often cloud our thinking.

The issue of perception versus intent has come to a head in this situation. The investigation revealed that early in the school year other coaches had "alerted" Mr. Graves to the potential that Dr. Vance and his wife would aggressively advocate [REDACTED]. Mr. Graves was, further, put on edge when Dr. Vance attended practices closed to

³ This statement is in no way meant to be a negative toward [REDACTED]. Instead, it is meant to address that situations can arise at a school involving any and all children, including the children of employees and supervisors.

other parents regardless of the number attended. Mr. Graves became further defensive as the meetings began taking place causing him to become increasingly unwilling to compromise. Mr. Graves then received the E-mail from Dr. Vance commenting on him personally and professionally, and indicating that further action will be considered in the future if the result of the intervention is unsatisfactory. Dr. Vance, on the other hand, states that he intended to simply be a watchful and good parent. Were he not the Superintendent, this entire incident could well have had a different tone—probably no less annoying to the criticism’s recipient, but with a greatly diminished perception of an employment threat.

Dr. Vance’s parental interventions as described in this investigation are at one level understandable. He is trying to be a good and involved parent. However, he cannot simply set aside his status as the Superintendent of Schools at any point in time or under any circumstances. Having children in a school system of which you are the chief executive officer creates a unique and unavoidable set of management problems that you cannot solve by simply taking off your “boss hat” and putting on a “dad hat.”

To be sure, Dr. Vance’s conduct is not, in our opinion, sufficient cause to support an effort to dismiss or suspend him as Superintendent. Having reviewed his Employment Contract with the Board, and with reference to established Tennessee law, an effort to discharge Dr. Vance, in our opinion, would be unjustified, ill advised, likely to fail, and more likely to lead to an award of substantial contract damages in favor of the Superintendent for the balance of his expected earnings under the contract. We do not recommend that any effort be pursued to dismiss Dr. Vance based on the facts as we understand them.

However, in our opinion, it is appropriate for the Board to consider measured disciplinary action in this matter, together with a required Plan of Corrective Action. Dr. Vance’s conduct in this matter appears to implicate Board Policy No. 5.6111(7) related to the Employee Code of Conduct. LCBOE Policy No. 5.6111(7) provides that all Board employees shall “maintain a safe and healthy environment, free from harassment, intimidation, bullying...” [emphasis added]. The Loudon County Schools Employee Handbook defines harassment as “conduct, advances, gestures or words of any nature, which have any of the following effects: (a.) Unreasonably interferes with an employee’s work or performance; (b.) Creates an intimidating, hostile or offensive work environment; (c.) Implies that submission to such conduct is made an explicit or implicit term of employment; (d.) Implies that submission to or rejection of such conduct will be used as a basis for an employment decision affecting the harassed employee.” [emphasis added].

Whether intentionally or unintentionally, Dr. Vance, through the E-mail, implied that Mr. Graves’ actions with regard to playing time [REDACTED] were the basis for

potential adverse employment decisions concerning Mr. Graves. He did this by making statements such as that the issues were "a topic for another discussion." He used words throughout his E-mail regarding the character, honesty, and integrity of Mr. Graves. Additionally, the meetings and repeated requests for resolution through the ranks of the schools' administration had the effect of unreasonably interfering with Mr. Graves' work performance by altering the way that he conducted the team for the benefit [REDACTED]. Finally, multiple school employees interviewed stated that the way that they conducted themselves with regard to this matter was directly affected by the fact that the requests were coming from the Superintendent of Schools.

If the Board concludes as a result of this Report that a violation of Board Policy No. 5.6111(7) exists, it is our recommendation that Dr. Vance receive discipline and corrective instruction in accord with such conduct. Under these circumstances, the undersigned recommends that the Board Chairman be empowered by Board Resolution to implement, in consultation with regular Board Counsel, a written reprimand from the Board to Dr. Vance regarding the violation of the harassment policy of the Board and requiring him to complete a corrective action plan that would include that Dr. Vance attend and complete training regarding employee harassment. As part of these guidelines, Dr. Vance should comply with all parent guidelines with regard to sports, including, but not limited to, honoring a Parent/Player Contract and refraining from attending events/practices closed to parents. Dr. Vance should be informed that the failure to complete the corrective action plan or follow said guidelines, or another violation of Board policy, may result in further discipline, including, but not limited to termination, for failure to comply with Board policies. If Dr. Vance complies with the Plan of Corrective Action, the Board is empowered and it would be our recommendation to consider removing his written reprimand from the personnel file in two years.

2) RECOMMENDATIONS REGARDING MR. GRAVES

It has not been possible to fully evaluate the conduct of Mr. Graves as of the date of this Report. However, at least three issues have been reported that are cause for concern regarding Mr. Graves' conduct as a coach and teacher in Loudon County Schools. They are: 1) reports of [REDACTED] having been subjected to post E-mail harassment and bullying both at school and on social media related to this controversy; 2) reports of retaliation by members of the basketball team [REDACTED] that occurred on team bus trips and in other venues where Mr. Graves would have had a duty to intercede; and 3) the improper distribution of the subject E-mail to persons who are not employees of the Loudon County Schools.

In particular it is concerning that Mr. Graves has admitted that the FERPA protected educational record (the subject E-mail) was purposefully sent by him to persons who are not employees of the school system. Mr. Graves sent the E-mail to his volunteer Assistant Basketball Coach, Ben Curtis, who is not employed by the Loudon County Schools at 8:15 am on December 11, 2018, the morning after he received it. Mr. Curtis, in turn, sent the FERPA protected document to his father, a volunteer baseball coach at the middle school who reported earlier negative confrontations with the Vances over sports activities involving [REDACTED]. Neither of the Curtis gentlemen were appropriate recipients of the E-mail under federal law.

What was only discovered during a computer search of Mr. Graves' school computer, is that Mr. Graves also sent the E-mail to his wife at 7:37 a.m. on morning of December 11th, before he sent it to either of his coaches. While there may be some arguable justification for the distribution of the E-mail to the assistant coaches, there is absolutely no justification for his distribution of the FERPA protected document to his spouse.

It is well known that someone ultimately and illegally made the document public, both on social media and by hand distribution. No one has admitted to engaging in this illegal conduct and the only witness who has confirmed having received a copy of the E-mail has refused to identify the person who provided it to him.

As a direct result of the discovery of the improper handling of the E-mail during this investigation, remedial FERPA training has already been recommended and initiated for the school.

Mr. Graves appears to be a young, inexperienced but talented teacher, and coach who genuinely loves his job with Loudon County Schools. This writer sees no basis in the facts currently known to seek Mr. Graves' dismissal as a teacher in the system; however, his behavior in distributing a federally protected FERPA educational record in this matter is extremely concerning and requires, at minimum, measured discipline and corrective action.

Accordingly, if the Board concludes as a result of this Report that one or more violations of FERPA are attributable to Mr. Graves, it is our recommendation that Mr. Graves receive discipline and corrective instruction in accord with such conduct. Under these circumstances, the undersigned recommends that the Board Chairman be empowered by Board Resolution to implement, in consultation with regular Board Counsel and Assistant Superintendent Garren, a written reprimand to Mr. Graves regarding the known FERPA violations he committed and requiring him to complete a corrective action plan that would include that Mr. Graves attend and complete additional training regarding FERPA and Board Policies related to

educational confidentiality. Mr. Graves should be informed that the failure to complete the corrective action plan or follow said guidelines, or another violation of Board policy, may result in further discipline, including, but not limited to termination. If Mr. Graves complies with the Plan of Corrective Action, the Board is empowered, and it would be our recommendation, to consider removing his written reprimand from the personnel file in two years.

3) FURTHER RECOMMENDATIONS

Additional FERPA training has already been recommended and initiated for all employees of Loudon County Schools. It is this writer's further recommendation that the above-mentioned FERPA training be expanded to the entire school system and repeated regularly to assure that the fundamental importance of this foundational obligation becomes better understood by the school community at large.

Respectfully submitted,

Lewis, Thomason, King, Krieg & Waldrop, PC


Lawrence F. Giordano

Disclaimer: The foregoing Report is based on and expressly limited to the facts and circumstances as presented to counsel by the parties involved in this investigation. Please be advised that this Report and the opinions expressed herein are subject to change upon the receipt of different or additional facts and/or circumstances.