Clark Hill

MEMORANDUM

REDACTED VERSION FOR PUBLICATION

TO: Erin LaBotz, Board President, Kenowa Hills Public Schools

FROM: Marshall W. Grate

CC: Dr. Cherie Horner
Luke Scholten

DATE: October 22, 2025

SUBJECT: Investigation of [redacted] Complaints Relating to Knight Strength Physical Education Class ("Knight Strength Class") and Allegations of Race Discrimination and Hostile Work Environment

INTRODUCTION

This report is submitted pursuant to your request as Board President of the Board of Education ("Board") of Kenowa Hills Public Schools ("District") that legal counsel investigate two complaints by a now former employee, [redacted] ("Complainant").[1] The first complaint was submitted under Title IX which prohibits discrimination on the basis of sex in regard to educational programs, and the second complaint alleged race discrimination and hostile work environment relating to [redacted] employment. The first part of this investigation report will address the Title IX complaint, and the second part will address [redacted] complaints of race discrimination and hostile work environment.

The investigation team included my colleague Mary Bradley, Dr. Cherie Horner, Luke Scholten (both are the current Title IX Coordinators and Compliance Officers) and me. The investigation team interviewed the three high school counselors, including [redacted]. The team interviewed [redacted] who is responsible for creating the master high school schedule, Principal Nate Robran, Athletic Director Ross Willick, football coach Donald Fellows, [redacted] who teaches the Knight Strength Class, and [redacted], who is the conditioning coach for this course. In addition, the team interviewed [redacted] and Superintendent Gerald Hopkins. And of course we interviewed [redacted] in the presence of her attorney, Charissa C. Huang. After that interview, the District interviewed three other individuals including [redacted]. The investigation team reviewed numerous emails and documents.

[redacted] [The Complainant] was not cooperative in this investigation. She refused repeated invitations to be interviewed in connection with her two complaints. Not until late in the

[1] [redacted] retired from the District effective September 30, 2025.

investigation did she agree to be interviewed with her attorney present, Charissa C. Huang. After her interview, [redacted] and her attorney promised to submit documentation in support of her claims by Friday, October 3, 2025, and we delayed further investigation to wait for the opportunity to receive these documents and analyze them. However, neither [redacted] nor her attorney submitted any further documentation in support of her allegations. Consequently, we proceeded to continue the investigation which concluded with the last interview on Wednesday, October 15, 2025.

There is a special note related to Principal Nate Robran. Prior to their interview, he told the counselors "not to say too much." Also, he expressed distrust to them in the Title IX Coordinators during the investigation. Principal Robran was asked about this comment, which he admitted to, but stated he might have been misunderstood and did not intend to interfere with the investigation. He explained that he intended that they answer the questions that were asked. The counselors did not interpret his statement to encourage their candid responses, especially when he expressed mistrust in the Title IX Coordinator(s). Instead, they interpreted his statement as a warning not to reveal too much. The investigation team considers his statement improper and as a clumsy attempt to influence the testimony.

The investigation team assured all participants that the District and Board would not tolerate any retaliation for their involvement in this investigation.

I. COMPLAINT OF SEX DISCRIMINATION INVOLVING KNIGHT STRENGTH CLASS.

A. <u>The Complaint</u>.

[redacted] [The Complainant] has been a long-term employee of the District dating from 2016. She began her employment as a social worker. Since March of 2021, she served as the Director of the District's Diversity Inclusion and Equity program. In addition, she served as a District Title IX Coordinator and Compliance Officer for investigating discrimination complaints. She became the Director of Mental Health during the spring of last school year.

On August 22, 2025, [redacted] submitted an email to Dr. Cherie Horner and Luke Scholten, current District Title IX Coordinators/Compliance Officers, submitting what [redacted] described as a formal complaint under Title IX of the Education Amendments and under the District's Title IX grievance procedures. Specifically, this complaint states:

> It is alleged that the District's policy/practice of offering a same-sex physical education class, denies females and non-athletes the ability to participate, discriminates on the basis of sex by denying equitable access to educational opportunities.

When we finally had an opportunity to interview [redacted] on September 25, 2025, she admitted that this allegation related to an incident that occurred during the 2024 school year. A female student complained about being denied the opportunity to enroll in the Knight Strength Class 1st hour. Apparently, the 1st hour of the Knight Strength Class was populated exclusively with male students, and the vast majority of these male students were members of the Kenowa Hills High School football program.

Even though [redacted] was a Title IX Coordinator with authority to investigate Title IX and discrimination complaints, she admitted that she did not open a formal investigation into this complaint in 2024. She never interviewed anyone within the high school administration such as the Principal and Athletic Director; never interviewed any of the coaching staff including head coach Donald Fellows; nor did she interview the two staff members in charge of the Knight Strength Class, [redacted], who is the designated teacher, and [redacted], who is the conditioning coach and has a bachelor of science and master's degree in exercise science. [redacted] did speak with some of the high school counselors who had complained about the all-male 1st hour Knight Strength Class and communicated their concerns that this potentially might violate Title IX. This was the only factual basis for her submission of her Title IX complaint.

An important fact emerged from the investigation. Other than the female student from 2024, who graduated that year, no other current female students complained about being denied access to the Knight Strength Class.[2] Because under current Title IX regulations, Title IX jurisdiction does not extend to former students and because there were no other student complaints about the Knight Strength Class, we elected to treat this investigation outside the Title IX regulations which require a signed complaint by a victim who is a current student. 34 CFR 106.30. Instead, the investigation team proceeded to investigate under the District's policies and the Michigan Department of Civil Rights Act, which prohibits sex discrimination in educational programming. MCL 37.2401. [redacted] appealed this decision to the Superintendent, who denied her appeal and affirmed the decision to treat this investigation outside the Title IX regulations. By treating the investigation outside the Title IX regulations, the investigation team had greater flexibility in conducting this investigation, but even though there were no female complaints, the investigation team was determined to still investigate whether there are any potential concerns relating to the 1st hour Knight Strength Class in connection with the prohibition of sex discrimination in the delivery of educational programs under Board policies, under the Michigan School Code, and under state and federal civil rights statutes.

B. <u>Knight Strength Class</u>.

In the High School Curriculum Guide, the Knight Strength Class is offered as one semester (.5 credit) to 9th through 12th grade students. The course description in the Curriculum Guide describes this class as follows:

> The class focuses on developing individual fitness routines specifically tailored to each student. Classroom settings as well as application of the material and the fitness center are utilized to teach the subject. Students receive individual instruction in total body strength training, body core stability, flexibility and agility as well as explosive power, speed and quickness. This class is available to anyone who is interested in learning fitness concepts and wellness activities. This class may be repeated.

The class is available for all six high school periods. There is nothing in the Curriculum Guide indicating that any particular hour is restricted to males or females or to an athletic program.

[2] The female student and her parent did not respond to attempts to interview them.

There are 12 weight training stations in the class, and four students are assigned to each station. Thus, the class can accommodate up to 48 students. [redacted] stated that the class size should not exceed 50.[3]

There are 51 students enrolled in the current 1st hour class. **All are male**. Of the 51 students, 48 are involved in the high school football program; two of the 1st hour students are special education students; and one student is a regular education student.

There is an uneven distribution of students in the remaining five hours of classes. The lowest number is 22 in the 4th hour class. The next highest number is 43, which is in the 6th hour class. For all six hours, there are a total of 226 students enrolled. The male students number 189, and in 2nd through 6th hour classes, there are 35 female students.

The investigation examined the class rosters for 1st hour of the Knight Strength Class commencing with the 2021-2022 school year. For that fall semester, there were only 22 students enrolled who were all male except for one female. For the second semester of the 2021-2022 school year, there was only one female enrolled out of a total 17. The 2022-2023 school year 1st hour class saw a dramatic increase. For the first semester, there were 8 females enrolled and 20 males. For the second semester, there were 28 males enrolled and 13 females. For the 2023-2024 school year, there were 20 male and 7 female students in the 1st hour class for the fall semester and 24 male and 7 female students in the spring semester.

Coach Donald Fellows started coaching football for the 2024 season. For the 2024-2025 school year, there were 48 students enrolled in 1st hour for each fall and spring semester, **all male**.

C. First Hour Reserved for the Football Team.

It is indisputable that the high school administration facilitated if not directed that the 1st hour class be reserved for football players starting in the 2024-2025 school year. Male football players dominate the 1st hour for both the first and second semesters. In fact, the football coach, Donald Fellows, submitted a list of students whom he expected to be assigned to the 1st hour Knight Strength Class, which the Principal would forward to the three counselors. The high school scheduler [redacted] established a special code to assist in scheduling the football team members for the 1st hour Knight Strength Class, which meant that for the 1st hour, football athletes had priority over other students.

This system created some scheduling problems. It complicated scheduling classes for students that need certain courses or programs. For example, one football player who is a French major needed a class for French III, but the student dropped the class to participate in the 1st hour Knight Strength Class. Other examples were cited with respect to other language courses such as Spanish III or of conflicts in scheduling with other types of programming. The weighted 1st hour class created scheduling problems for other required courses such as Economics and Government. The counselors heard from parents that if their student did not take the 1st hour Knight Strength Class, then the student would not be eligible for playing time on the football team. One student

[3] The teachers' collective bargaining agreement has a daily limitation of 200 students and not any limitation of class size. However, documentation supported that a class larger than 50 results in diminished participation in the exercise routines. One student spent part of their time jogging because there were insufficient spaces in the 12 exercise stations.

who was involved with the college program dropped out in favor of going to the 1st hour Knight Strength Class so he could play football. The three counselors expressed concerns about whether the domination of the 1st hour Knight Strength Class by male football athletes constituted sex discrimination.

The Principal is very supportive of the football program and of coach Donald Fellows. The Principal observed that in his experience, it is very common for high schools to adopt weight training classes dedicated to football athletes. To his knowledge, no female student has been denied access to the Knight Strength Class. He did ask some females if they wanted to be in 1st hour, but they preferred not to be. He was not overly concerned about scheduling issues. He commented that there are many scheduling challenges to create a master schedule. For example, the band has a dedicated early hour class which forces students to make choices on their course selection options.

Coach Donald Fellows is very intentional and passionate about the football program. He is self-employed. He wants his players to be in the 1st hour, so he has a chance to check in on them. The 1st hour blends in with earlier morning sessions of a zero-hour weightlifting program with [redacted]. He disavowed the rumor that football players' playing time is conditioned on participating in the 1st hour Knight Strength Class. He has approximately 81 players for freshmen, junior varsity, and varsity, and that is more than any single class could accommodate. He did admit that he wanted his football players in the 1st hour and that he did submit a suggested roster. He does not require football players to participate in the 1st hour Knight Strength Class, but they do have to participate in a Knight Strength Class at some point. If they cannot get the Knight Strength Class scheduled in one of the six classes, then he has a zero-hour class 1-2 mornings per week so they can participate. He believes weight training is vital for a successful football program and for players' safety. He believed that it would be beneficial if there was an introductory course to the Knight Strength Class. He believed that in general female students would not take the 1st hour class because of showering and preparation needs for the remainder of the school day. The same requirement applies to the second or spring semester. If you are not in the Knight Strength Class, you have to lift at least three times per week. If they cannot get into the 1st hour, he works with the family to ensure that the student has the opportunity to participate in weight training.

The Athletic Director, Ross Willick, has been in his position for just over a year. He is totally behind student athletes participating in weight training through the Knight Strength Class. He has told all of the coaches that they need to do more with this program. He believes that the wrestling coach and the other coaches, both boy and girl sports, should take advantage of the class more than they do. Although he admits that the football players dominate the 1st hour, he believes it is no different than the band which has a 1st hour requirement for band students. The Athletic Director also believed there should be an intermediate class that should happen before the more advanced training. Despite his advocacy with other coaches, not all coaches value weight training the same as coach Donald Fellows. He thought it would be best if they could do both 1st and 6th hour advanced strength conditioning divided by gender. The Athletic Director is totally supportive of Coach Donald Fellows. The community is responding positively to the success of the football team. The high school has had great success in track and field, girls' basketball, and other sports.

The strength and conditioning coach, [redacted], believes that there are sex discrimination concerns regarding the domination of the 1st hour by football players. The class

has too many students; it is difficult to work with more than 48 students in a class. Coach Fellows tells her what to do during the 1st hour with respect to her sequencing and weight training designs. On Fridays, after 20 minutes of weight training, he does 30-45 minutes of film review for football players. During the second semester, Coach Fellows is still very much involved with the 1st hour Knight Strength Class with the football players. He may put students into formations and have players perform throws or running plays. He would typically do this at least once a week during 1st hour. He would split the groups and coach – doing things with football with one group while she was working with weight training with the other group. She does not believe the situation is equitable for female students. When she first started, she had seven female students in the 1st hour, but they were then pushed out. She believes the equitable solution is to allow kids to take the 1st hour class when they have to take it. She recommended an introductory weight training class. She admitted that the female-to-male ratio is low for the total participation, but there is a growing number of females each year.

The Knight Strength Class teacher, [redacted], has coached both girls' and boys' sports. He is currently an assistant coach at East Grand Rapids. He also has daughters who have been student athletes. He agreed that more than 50 students is not an ideal number in the class although doable. He believes that most of the high school football programs in the area have a dedicated weight training hour for credit for football athletes. He admitted that Coach Fellows is involved in the spring semester. He admits that that 1st hour's majority is football kids. He has seen the coach do lineman drills, drills with quarterbacks, handoffs, and wide receivers during the second semester.

The coach does not do anything different than anyone else would do. [redacted] admitted that there was film review during the 1st hour of the class. He believes boys and girls are given equal access to the Knight Strength Class more so now than ever before. The athletic department engages with coaching staff, including [redacted], who communicates the opportunities with the weight training class. He has never told any student that they could not be in his class. He has never turned anyone away.

D. <u>MHSAA Requirements</u>.

The MHSAA Handbook provides regulations for out-of-season coaching. These regulations allow voluntary structured and scheduled practice rotations throughout the facility of four player groups moving from conditioning programs or weight training programs or open gyms to skill development sessions (e.g., hitting, throwing, running, lifting). These are permitted at the same time on the same campus or facility, provided no more than one of the four player groups involved sports specific instructions. The handbook also provides the following instruction regarding curriculum courses:

> Interscholastic athletics or extracurricular may not be part of any curriculum. If classes contain no content specific to MHSAA tournament sport, they are allowed. The subject matter specific to any MHSAA tournament sport is taught to students. Instruction to every student during any trimester or semester shall include nearly equal attention to at least three different topics such as other sports, lifesaving, water safety instruction, CPR, officiating,

> sportsmanship, and first aid, as well as fitness, general weight training and conditioning. Classes must be open to all students. Out of season, school sport coaches may only be involved in teaching sport content in those courses in a sport they coach for that school district, if they are the staff member assigned to instruct this course on a regular basis throughout the semester or trimester.

LEGAL ANALYSIS

Title IX under both federal law and the Michigan Civil Rights Act prohibits school districts from excluding any person from the participation in, denial of benefits of, or being subjected to discrimination in any education program or activity on the basis of sex. This covers school-sponsored interscholastic and intermural athletics. Discrimination laws do permit schools to operate or sponsor separate teams based on sex where selection for such teams is based on competitive skill or activity involved or the activity involved is a contact sport.

The Michigan School Code does allow for separate classes based on gender provided there are equal co-educational opportunities:

> (1) Except as otherwise provided under subsection (2) and section 475, a separate school or department shall not be kept for a person on account of race, color, or gender. This section shall not be construed to prevent the grading of schools according to the intellectual progress of the pupil to be taught in separate places as may be considered expedient.
>
> (2) Subject to subsection (3), the board of a school district or intermediate school district or board of directors of a public school academy may establish and maintain a school, class, or program within a school in which enrollment is limited to pupils of a single gender if the school district, intermediate school district, or public school academy makes available to pupils a substantially equal coeducational school, class, or program and a substantially equal school, class, or program for pupils of the other gender.
>
> (3) If the board of a school district or intermediate school district or board of directors of a public school academy establishes a single-gender school, class, or program described in subsection (1), the school district, intermediate school district, or public school academy shall not require participation by any of its pupils in the single-gender school, class, or program. The board or board of directors shall ensure that participation by pupils in a single-gender school, class, or program is wholly voluntary. For the purposes of this subsection, participation by a pupil in a single-gender school, class, or program is not considered to be voluntary unless the school district, intermediate school district, or public school academy also makes available to the pupil a substantially equal coeducational school, class, or program. MCL 380.1146.

Federal regulations require school districts to provide equal educational opportunities in athletics for members of both sexes. Factors to consider whether equal opportunities in athletics have been provided include the following: (1) whether selection of sports and levels of competition effectively accommodate the interest and abilities of members of both sexes; (2) the provision of equipment and supplies; (3) scheduling of games and practice times; (4) travel and per diem allowance; (5) opportunity to receive coaching and academic tutoring; (6) assignment and compensation of coaches and tutors; (7) provision of locker rooms, practice, and competitive facilities; (8) provision of medical and training facilities and services; (9) provision of housing and dining facilities and services; and (10) publicity. 34 CFR 106.41(c).

There is sparse case law addressing these issues. The classic case is *Communities for Equity v Michigan High School Athletic Association*, 493 F 676 (CA 6, 2006). The Sixth Circuit upheld a lower court's decision that the MHSAA violated federal discrimination law by discriminating against female high school basketball athletes when it scheduled their sports to play during disadvantageous non-traditional seasons. In another case from the United States Second Circuit Court of Appeals involving a girls' soccer program in the state of New York, the court found that a school district's scheduling of girls' high school soccer in the spring and boys' high school soccer in the fall denied the girls' team the opportunity to participate in the New York State Championship tournament. This deprived girls of an equal opportunity to participate in the championship tournament along with the boys. *Mcormick v School District of Mamaroneck*, 370 F3d 275 (Ca 2, 2004).

Regulations and case law do not dictate a perfect equal outcome in girls' and boys' sports. They do require equal opportunity. The investigation established the following facts. Obviously, weight training is critical and in fact important for safety in the sport of football. When the District hired Coach Fellows, it hired a coach who is very intentional, passionate, and determined to make the football program the best it can be. It is understandable that his passion has coopted the 1st hour of the Knight Strength Class for the football team, both in the first and second semesters. This is reflected by the data which shows the 1st hour was not as well attended before Coach Fellows took over the football program, but now there are over 50 students in the 1st hour, where before there were only 30. It also shows that female student athletes no longer participate in the 1st hour, where before there were some who did. The arguments by the football coach and Athletic Director that female students do not prefer to participate in the 1st hour because of feminine hygiene and appearance issues is not a valid argument and not accepted by the two individuals that conduct the class – teacher [redacted] and strength and conditioning coach [redacted].

There is no question that the football coach, athletic department, and high school administration have intentionally dedicated the 1st hour Knight Strength Class opportunities to the football team. They contend that a dedicated weight training program for the football team is necessary to be competitive with other high school football programs, which is probably true. However, this passion for football culture has created two issues for the Board—one academic and the other involving potential sex discrimination.

First, the high school administration's passion for football has been at the expense of some students' academic needs. The administration needs to listen more carefully to concerns expressed by the counselors to ensure that students' academic needs come first.

Second, the 1st hour Knight Strength Class is a de facto male specific gender class. This all-male class at least flirts with a violation of state and federal gender non-discrimination laws. No female has enrolled in the 1st hour class for the past two years. While perhaps not intentional, passion for the football program has pushed females out of 1st hour and really limited their course selection for the Knight Strength Class to the remaining five hours of the day. As outlined above, under the Michigan School Code, a same sex class for one gender requires a school to hold a coeducation class and a same-sex class for the other gender. MCL 380.1146.

The District has some defenses against a claim of intentional female gender discrimination. In the first place, there is no female student who has officially complained about being excluded from the Knight Strength Class. Historically, boys' enrollment far outnumbers girls' enrollment in the six available classes. There is no female student or female athlete who claims she has been denied the opportunity to participate in the Knight Strength Class. There has been an effort by the Athletic Director to make sure other coaches of both the girls' and boys' teams are aware of the advantages of the Knight Strength Class and to encourage them to use this program for their athletes. However, these efforts have not been documented, and, for whatever reason, other coaches have not taken advantage of these opportunities. The high school administration including the Athletic Director have proposed solutions of perhaps doing separate strength training courses for male and female, but this could further complicate the scheduling needs of the counselors and the academic needs of the students. Certainly, there are other programs that have a dedicated 1st hour, such as band, but obviously band is a co-education program that does not favor one gender over the other.

The investigation team is not prepared to conclude that the current domination of the 1st hour Knight Strength Class by the football team automatically establishes a violation of state and federal discrimination law. However, the present de facto male-only 1st hour risks a violation, and the District needs to do more to ensure equal opportunities for girl students and girl student athletes. The high school master schedule has been set for this school year, and changes will need to be implemented for the 2026-2027 school year.

RECOMMENDATIONS

Accordingly, to insulate the District from any sex discrimination claim relating to its Knight Strength Class and to improve the quality of this program, the investigation team has the following recommendations:

1. The class should be limited to no more than 50 students and preferably to 48 students. Both [redacted] stated there are 12 weightlifting stations which really accommodate 48 students. They said they could accommodate 50. Classes over these thresholds diminish the instruction and student experience.

2. Serious consideration should be given to establishing an introductory Knight Strength Class. This is recommended by both [redacted] as well as Coach Fellows and the Athletic Director. This reduces the amount of in-class instructional differentiation between students who have no experience in weight training and those who are advanced. By creating two or more advance classes may assist in scheduling

student athletes and possibly create an opportunity to have established an advance class that is dedicated to enrolling female students first.

3. The counseling department must be supported in its efforts to maximize students' academic needs, and the counselors must be supported in scheduling classes, especially for 11th and 12th grade students. Necessary courses should be given priority over students' participation in football. If a student needs to be placed in the 1st hour class, then that need should be accommodated. Parents and students are making choices with at least the unstated support of the administration of choosing football over academic needs. Coach Fellows' only requirement is that his players take a strength class. He likes to have a roster for 1st hour, but one class hour cannot accommodate 81 football athletes. He made it clear that so long as his players participate in a Knight Strength Class during one of the six hours, or during zero hour before school, that student qualifies for the team.

4. I believe that the football coach can submit a roster of players that he would like to see participate in the 1st hour, but the athletic department must document that it has made similar overtures to coaches of other sports, especially the coaches of girls' sports, and they should have an equal opportunity to place students in the Knight Strength Class in an hour at their convenience. If 1st hour is carved out for football players, then other hours should be carved out for female athletes. Again, if a student, female or male, needs to take the 1st hour Knight Strength Class for academic purposes, then that student should be given priority over football players.

5. As I understand the MHSAA rules, Coach Fellows can engage in the second semester with football players, but I see no support for conducting film review during the 1st hour of the Knight Strength Class. Use of an academic course for football film review deviates from the course description, does not involve the class teacher, transforms a credit hour of instruction into an extracurricular activity, and may place the football program in jeopardy of violating the MHSAA handbook, and may potentially expose the District to a pupil accounting audit that would disallow the film review time as qualifying for State School Aid.

6. Lastly, I recommend that the Superintendent have a conversation with the Principal to advise him that he should never attempt to interfere with a District investigation. Perhaps more importance was attached to the Principal's comments than he intended, but the counselors formed the clear impression that they were being cautioned on what to say to the investigators. This was an improper exercise of administrative authority. I believe the District currently has two very strong Title IX Coordinators/Compliance Officers in Dr. Cherie Horner and Luke Scholten. As is appropriate, they report directly to the Superintendent regarding their investigations. The Superintendent should make certain to empower them and give them his full support whenever they are conducting an investigation.

II. [redacted] CLAIMS OF RACE DISCRIMINATION AND HOSTILE WORK ENVIRONMENT.

In addition to submitting her complaint regarding the Knight Strength Class, [redacted] submitted a claim that she experienced a hostile work environment and race discrimination. This claim consisted of the following allegations:

> Over the past four years, I have consistently experienced a hostile work environment, professional undermining, and disregard for the equity and mental health priorities that my position was designed to advance. Below, I outline the primary areas of concern:
>
> **1. Lack of Support and Dismissiveness of Concerns**
>
> - An anonymous note warning me of an administrator's racially harmful behavior was shared with district leaders but dismissed without action.
> - Community members reported administrators using racial slurs, such as the N-word and "spic," with no meaningful follow-up.
> - Families reported withdrawing their children due to unaddressed bullying and discrimination.
>
> **2. Hostile Work Environment in the Administration Building**
>
> - I was subjected to belittling comments, including suggestions I was "taking space from someone else."
> - Necessary equipment and office resources were withheld, forcing me to purchase basic items myself.
> - Unlike other administrators, I was never assigned dedicated support staff.
>
> **3. Professional Undermining and Exclusion**
>
> - Equity-related projects and resources were removed from my oversight.
> - In four years, I was never formally evaluated or acknowledged for my contributions.
> - Principals openly questioned the value of my role, and district leadership minimized or dismissed my safety concerns.

4. Disparate Treatment and Discrimination

- Families of color were treated differently than white families in terms of responsiveness and support.
- Staff and students reported ongoing discriminatory behavior and language that went unaddressed.
- Offensive phrases such as "Jew me down" and "colored" were used without consequence.
- A Black student was excluded from the yearbook, with minimal corrective action.
- Leadership structures (such as the Superintendent's Executive Council) largely excluded female directors and perpetuated inequities.

5. Failure to Investigate or Correct Harm

- Principals were permitted to selectively apply district bullying and threat assessment policies.
- Reports of discriminatory conduct were not meaningfully investigated, and individuals with documented complaints were promoted.

The cumulative effect of these issues not only created a hostile work environment for me personally but also perpetuated harm against marginalized groups in our district. My repeated attempts to raise these concerns were often met with dismissal, minimization, or jokes, which deepened the culture of exclusion.

Although I am retiring, I feel a responsibility to ensure this record exists. My hope is that the district takes these issues seriously and implements meaningful changes to create a safe, inclusive, and supportive environment for all students, families, and staff. These are only a few examples of situations that exist in Kenowa Hills Public Schools; there are many more.

After rejecting repeated invitations for an interview, [redacted] finally submitted to an interview on September 25, 2025, with her attorney, Charissa C. Huang, in attendance. Dr. Cherie Horner and Luke Scholten also attended the interview which lasted over three hours. [redacted] provided a litany of allegations, many of which dated back several years and involved staff members who are no longer employed by the District. She admitted that for the past two years she never formally opened a Title IX investigation as Title IX Coordinator, even though she admitted that she received training for her role as a Title IX Coordinator.

With respect to the lack of support allegation, [redacted] focused on an allegation that a staff member, [redacted], used the "N" word and epitaph "spic." [redacted] is no longer with the District, and this allegation dated back to when [redacted] was Assistant Superintendent of the District and [redacted] supervisor. She never investigated this allegation, never talked to [redacted] about the allegation, and never formally launched an investigation. She claimed that she brought this and other allegations to the attention of [redacted] and the Superintendent, but they did not do anything. She claimed there was no investigation process in the Board of Education policies, although Board Policy 3362 (Anti-Harassment and Form 3362 F1) specifically has a detailed process for investigating race discrimination complaints.

As for the category of belittling comments, [redacted] complained about her computer equipment. This allegation dates back several years to when [redacted] was still employed. Apparently, she wanted two computer monitors even though no one else in the office had two monitors. Eventually, she admitted that [redacted] gave her the District credit card and told her to buy her own computer, which she did. She also claims that two secretaries in the office, [redacted], told her that she was taking up space. She did not attribute any specific denotation or contextual reference to race in connection with these comments.

She accused the counselor, [redacted], who retired, stating, "Is Halloween coming early?" [redacted] believed this statement was in reference to her headwrap. She accused [redacted] of making fun of LGBTQ students at the high school. Again, this was during the time of [redacted].

She accused [redacted], who also is retired, of making a statement, "Jew me down." This statement was not made to [redacted] but instead it was toward a person owing [redacted] money.

[redacted] claimed that she was not assigned dedicated support staff. However, no one in the administration office had dedicated support staff, but instead the secretaries worked as a pool to assist the administrators in the administration building.

She claimed the District removed tasks from her oversight. She gave an example of handbook policies. She accused [redacted] of making a statement, "Boys will be boys," and [redacted] did not follow the process on inclusion.

She claimed an African American child was not put in the yearbook. A determination was made to print one yearbook with this student's picture included rather than reprint all the yearbooks. She did not approve of this remedy.

She claimed that she never received an evaluation except by [redacted] which was done before she came to the central office. She claimed that in one administration team meeting Principal [redacted] questioned her value at a meeting. She complained to the Superintendent about this, who advised her to repair relationships.

She claimed families of color were treated differently than white families. But she failed to provide names of these families, claiming that she had emails, which were never produced. She did mention one circumstance involving a family who claimed that their daughter was being threatened. A high school counselor familiar with the incident said this was not a threat. When

asked about why this constituted race discrimination, she claimed that white families were treated better with threat assessments than black families. She claimed all the black and brown students ended up at Pathways and did not have the same resources as white students.

She claimed a bus driver, who has since left the District, was a victim of race discrimination. She brought this to the attention of human resources and to [redacted] that a bus driver accused other bus drivers of racism, but it was not investigated. She claimed Principals did not follow the process regarding bullying. She complained about Principals, but nothing happened. She claimed individuals were promoted who were the subject of complaints citing [redacted] and [redacted], who is no longer with the District.

Up until this last year, [redacted] reported to [redacted], who currently is Director of Innovation, Grants and Secondary Curriculum. Previously, he was the Assistant Superintendent of Teaching and Learning Services and was also designated as a Title IX Coordinator. The computer monitor issue happened before he arrived as her supervisor. He confirmed that she eventually obtained the computer monitor and equipment that she requested. As to dedicated support staff, he acknowledged that she was frustrated with the arrangement. She wanted a dedicated team exclusive to her, but that was not how support staff worked in the administrative building. [redacted] commented that [redacted] felt attacked if people questioned her. He explained to her how she could obtain support from the support staff, but she did not cooperate. She often opted out and refused to participate in meetings with support staff. She became disengaged.

[redacted] had conversations with her about her complaints involving Principals. He reminded her that Principals needed support. He did not believe any comments he made were racially motivated towards her. He tried to counsel her as to whether she had collected all the facts, brought it to the Superintendent's attention or the human resources department. As to parent concerns, he would take these issues on before they got to the Superintendent. He would sit down with families that [redacted] brought to his attention. If the administration did something wrong, he would follow up. [redacted] was not aware of any issue that remained unresolved at his level.

In the interview with the Superintendent, he confirmed that [redacted] did have agency and was empowered to investigate as one of the Title IX Coordinators. He was aware that [redacted] would follow through on complaints, but he was not aware of [redacted] following through on complaints. He would comment to her that she was the person who had the authority to conduct the investigation. She had agency to act. As for the computer monitor, having two computer monitors was something that normally the central office did not do. He believed that eventually this issue got resolved. As for the handbook, she did not like how the project was going, and so the task was reassigned. He did admit that [redacted] did not evaluate her. He did admit that some of the building administrators were frustrated because they felt that they had to clean up after her uncompleted tasks. He is not aware of any of the facts underlying complaints by families of color. He was not aware of alleged discriminatory language used by staff. As for the student who was left out of the yearbook, he understood [redacted] argument that they needed to reprint all the yearbooks, but they thought this was costly, and the solution was to print one yearbook with the picture of the student who was mistakenly omitted from the initial yearbook publication.

As for the Administrative Executive Council, previously [redacted] served on the Council. Presently, there are two female members. [redacted] was not at an assistant administrative level, and he did not believe he needed three people from the same department to be part of the executive team. The Superintendent believed that [redacted] created division within the administration.

The investigation team interviewed three individuals who were targets of [redacted] allegations. None had favorable interactions with or reports of [redacted]. One of these was [redacted], the administrative assistant in the administration building. She described [redacted] as "not easy to get along with." She seldom engaged or spoke with [redacted]. If a staff member pushed back or asked questions of [redacted], then she would ignore that staff member. It is true that [redacted] was initially denied a second computer monitor because no one else in the building had a second monitor. According to [redacted], she does not believe [redacted] was treated any differently on the basis of race. [redacted] commented that the culture in the building is much better since [redacted] departure.

The investigation team interviewed [redacted], who is Principal at Zinser. She described her relationship with [redacted] as changing over the years. At first, she was great to work with, but then their relationship deteriorated. She claimed [redacted] created a toxic environment and only favored certain staff members. [redacted] received some grant money that allowed her to use interns. However, she failed to supervise these interns who did not know what to do. She had the interns get her laundry and do her personal errands. [redacted] often did not show up to work. She would take credit for work that she did not do. When a staff member experienced tension with [redacted], a restorative circle was offered, but [redacted] refused to attend. Whenever she did attend a restorative circle, [redacted] was defensive, never admitting any fault, or apologizing, or showing any remorse. As to the LGBTQ allegation, [redacted] denied that she is anti-LGBTQ. She claims that [redacted] allegation over a complaint about social and emotional learning ("SEL") was false. According to [redacted], people were frustrated with [redacted]. She did not show up to do her job. There never was anything race related. She described [redacted] as "dangerous" because she misrepresents things. In summary, she described [redacted] as acting out of hate, being judgmental, and exhibiting a toxic behavior.

Third, the investigation team interviewed [redacted] who had a similar experience as [redacted]. At first, [redacted] was great to work with until she went to the central administration office. He described disengagement. She refused to participate in restorative conversations. She was abrasive when staff members disagreed with her. She would act on lies or the rumor mill. She would not investigate allegations or obtain or produce evidence. He denied selectively applying District bullying and threat assessment policies. In one scenario, she refused his request for help and to meet. She provided inadequate training. She was never an advocate; never provided support. He was not aware of any hostile work environment; in fact, she was the one that treated staff members poorly. They did not want to work with her.

LEGAL ANALYSIS

[redacted] [The Complainant] makes two broad claims. She claims she is a victim of race discrimination, and secondly, she claims she is the victim of a hostile work environment; again, based on presumably race. Her attorney contends that she was in effect constructively

discharged because of these allegations. The claim of race discrimination will be addressed first, and then secondly, hostile work environment.

I. NO RACE DISCRIMINATION.

Under federal and Michigan law, there are two methods to establish a race discrimination claim. The complainant must either show direct evidence of race discrimination or in the alternative satisfy a prima facie case of race discrimination through circumstantial evidence. Based on this investigation, [redacted] cannot satisfy either of these methods for establishing a claim of race discrimination.

A. No Direct Evidence of Race Discrimination.

[redacted] allegations contain no direct evidence of race discrimination. To prove direct intentional discrimination, a complainant must show that she (1) was a member of the affected class; (2) suffered an adverse employment action; and (3) the adverse action occurred under circumstances giving rise to an inference of unlawful discrimination. *Sniecinski v Blue Cross and Blue Shield of Michigan*, 469 Mich 124, 134 (2003).

The investigation failed to substantiate these factors. Most of her allegations relate to alleged incidents that happened to third parties. For example, all the alleged statements involving racial epitaphs such as the "N" word or slang statements were made outside her presence. In most cases, we do not even know to whom the statements were addressed. None were directed at [redacted]. Furthermore, many of her targets of wrongdoing no longer work for the District. Some of the allegations pre-date the statute of limitations of three years. Many of the allegations date back to [redacted], who left the District over four years ago. The statute of limitations for a race discrimination claim is three years.

The only reference that would qualify as a direct statement was the comment about Halloween in reference to [redacted] headwrap by [redacted], who no longer works for the District. However, from an objective basis, it is extremely difficult to connect a comment about Halloween to a statement of race discrimination. Even then, if there was a racial context associated with the comment about Halloween, this does not rise to the level of race discrimination since [redacted] had no control over the terms and conditions of [redacted] employment.

Her supervisors denied making any racial statements toward [redacted]. They denied that any employment decision was motivated by race. With respect to [redacted], he never made any comments toward [redacted] on the basis of race. In fact, [redacted] attempted to coach and counsel [redacted] in her role as Title IX Coordinator/Compliance Officer. Superintendent Gerald Hopkins promoted her into the DEI/Title IX Coordinator/Compliance Officer position. He never made any comments toward [redacted] that can be interpreted as exhibiting race discrimination.

Finally, [redacted] never experienced an adverse employment action. She had been planning to retire for some time. She voluntarily elected this option. She was never disciplined, demoted, or suffered a loss in compensation or benefits.

B. <u>No Prima Facie Case of Discrimination</u>.

For a complainant to establish a prima facie case of race discrimination, the three-step framework developed in *McDonald Douglas Corporation v Green*, 411 U.S. 792 (1973), guides the analysis of discrimination claims based on disparate treatment both for Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e, *et seq*. and Michigan's Elliott-Larsen Civil Rights Act, MCL 37.2100, *et seq*. The charging party bears the burden of demonstrating a prima facie case of race discrimination. If she does so, then the burden shifts to the District to offer a legitimate, non-discriminatory explanation for its actions. If the respondent does so, then the burden shifts back to the charging party to show a pretext. *Chattman v Toho Tenax Am., Inc*., 686 F3d 339, 347 (CA 6, 2012).

To establish a prima facie case of race discrimination based on disparate treatment, the charging party must establish the following elements: (1) that she is a member of a protected class; (2) that she suffered an adverse employment action; and (3) that she was treated differently from similarly situated members of the unprotected class.

[redacted] cannot establish the elements of a prima facie case of race discrimination. Her race is African American, but any race claim fails on the question of adverse employment action. As discussed above, [redacted] had communicated to the Superintendent some time ago her intention to retire from employment, which she did on September 30, 2025. The District did not seek her retirement and never suggested to her that she should retire or leave the District. Retirement was her voluntary choice.

The District did alter her title and changed some of her responsibilities. But these changes do not rise to the level of an adverse employment action. She suffered no loss of compensation or benefits. She remained at the same administrative level. Her personnel file contains no disciplinary action.

[redacted] does claim that she was mistreated. She claims that she was not empowered or did not have agency to do her job. Superintendent Hopkins denied this assertion and confirmed she did have the power to investigate. She was a Title IX Coordinator/Compliance Officer. Notwithstanding, the record establishes that for the last couple of years, she never formally opened a Title IX investigation despite supposedly receiving complaints that would invoke Title IX jurisdiction. In many of her complaints, she never followed up with an investigation or even spoke to the responding party who is accused of wrongdoing. Instead, she seemed to take the unsubstantiated complaint to either [redacted] or the Superintendent without determining whether the complaint was meritorious. I do believe that supervision over her and over the Title IX administration was lacking, but there are no facts to support that she was a victim of race discrimination.

A complaining party cannot base their own personal claim of discrimination on third parties' complaints of discrimination. For example, a party cannot claim that she is a victim when the alleged discrimination happens to another party. This characterization applies to many of [redacted] complaints.

She fails to identify any similarly situated employee to her who was treated more favorably. She complains about the executive council not containing females. However, the Superintendent

said that [redacted] was part of the executive council, and certainly, now the executive council contains two females. She was a director and not assistant superintendent, which is the type of position typically part of the Superintendent's executive counsel.

In summary, based on the investigation, [redacted] cannot satisfy the requirements of a prima facie case. She suffered no adverse employment action. Her decision to retire was voluntary. The standard for establishing a constructive discharge is very high, and none of her allegations even when viewed in totality satisfy that standard. The work circumstances must be so severe that a reasonable person in the employee's place would feel compelled to resign. *Joliet v Pitoinak*, 475 Mich 30 (2006). The facts fell short of this legal standard.

II. NO HOSTILE WORK ENVIRONMENT.

[redacted] claims she was a victim of hostile work environment. The racial harassment alleged must create a hostile work environment. To establish a claim of hostile environment harassment, the individual must prove: (1) the individual belonged to a protected group; (2) the individual was subjected to communication or conduct on the basis of race; (3) the individual was subjected to unwelcome racial conduct or communication; (4) the unwelcome racial conduct or communication was intended to or in fact did substantially interfere with the individual's education, or created an intimidating, hostile, or offensive educational environment; and (5) respondeat superior. *Bow v Willow Run Cmty. Sch.*, No. 223207, 2001 WL 889137, at *2 (Mich. Ct. App. Aug. 7, 2001)(unpublished)(alleging race harassment under the ELCRA); see *Chambers v Trettco, Inc.*, 463 Mich. 297, 311 (2000).

When analyzing a harassment case under the ELCRA, courts consider "all of the circumstances," including "the frequency of the conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's performance." *Harris v Forklift Sys.*, 510 U.S. 17 (1993). The conduct in question must be judged by both an objective and a subjective standard: "the conduct must be severe or pervasive enough to create an environment that a reasonable person would find hostile or abusive, and the victim must subjectively regard that environment as abusive." *Black v Zaring Homes, Inc.*, 104 F.3d 822, 826 (6th Cir.1997) (citing *Harris*, 510 U.S. at 21-22). Finally, there must also be respondeat superior established to impute liability on the District. That is, the District must be responsible for the harassment or failing to respond to harassment, thereby creating a hostile learning environment.

Again, [redacted] inventory of complaints do not rise to the level of hostile work environment. She complained about not having dedicated clerical staff, but this was true for all the administrators in the administration building. Even the Superintendent commented that he went for several months without a personal secretary and had to rely on the secretarial pool for clerical tasks. The complaint about the computer monitor was resolved. Even so, no other administrator was issued the computer monitor requested by [redacted]. Again, this issue occurred outside the statute of limitations. There is the one comment by former employee [redacted] regarding a Halloween costume in reference to [redacted] headwrap, but even if this statement can be construed as a race-based insult, a single statement of this nature does not rise to the level of severe, persistent, or pervasive actions that create a hostile work environment. None of the other allegations satisfy this standard.

In fact, [redacted] narrative is not supported by the persons whom she accused of wrongdoing. [redacted], one of the clerical workers in the administration building, described [redacted] as being the one who was difficult to work with and who created a hostile environment. Principal [redacted] described her interactions with [redacted] as difficult. She described [redacted] as creating a toxic work environment. [redacted] expressed the same experience—she was not helpful, not responsive, and not trustworthy.

The experience of these employees raises questions about [redacted] credibility over her perception of the events that she described. The fact remains that she refused to cooperate with the investigation. She refused to be interviewed to support her allegations until weeks into the investigation and then only with her attorney present. She promised to provide supporting emails and documentation, but neither she nor her attorney followed through on that promise.

CONCLUSION AND RECOMMENDATIONS

In conclusion, the allegations of race discrimination and hostile work environment are unsubstantiated. It is recommended that a letter be sent to her to that effect with a copy to the Superintendent. As noted above, the investigation found inadequate administration of Title IX and discrimination claims during her tenure as Title IX Coordinator and Compliance Officer. This circumstance has been remedied with the appointment of Dr. Cherie Horner and Luke Scholten as the new Title IX Coordinators and Compliance Officers. It is vitally important that the Title IX Coordinator/Compliance Officer has direct access to the Superintendent, which they do. As legal counsel, we recommend that the Title IX Grievance Procedure and Board Policies be updated to ensure compliance with current laws and that the District continue to provide training to administration regarding Title IX and non-discrimination issues.