

**Arlington Independent School District
Public Complaint Form
Level Four**

Complete this form in accordance with District policy GF (LOCAL). Your complaint will be dismissed if it is submitted with incomplete information. Submit your Level Four complaint via email to HREmployeeRelations@aisd.net

1. Name DAVID L. JARVIS,
2. Address & Telephone Number 500 Dorcas Lane, Arlington, TX 76013 (817) 991-7153
3. Provide the Level Three decision Attached
8. Identify the date you received the Level Three decision 5-11-23
9. Attach a copy of the Level Three decision and specifically identify the part(s) of the Level Three decision that you factually or legally disagree with and want the Board of Trustees to review.


The two-line decision letter from Dr. Cavazos did not explain the basis for his denial of my grievance. Since it appears that Dr. Cavazos is simply adopting Dr. Hill's decision letter - he appears to deny my grievance for the sole reason that attorney Eichelbaum's email did not represent official AISD policy. In other words, since the email was not AISD policy, the email could not be retaliatory conduct. I factually and legally disagree with Dr. Cavazos - since it appears that he has concluded (along with Dr. Hill) that it was not possible for attorney Eichelbaum to engage in unlawful retaliation unless his email to me represented official AISD policy.

10. Specifically state why you disagree with the part(s) of the Level Three decision that you identified in response to number 5 above.

I disagree with the Level Three decision because the actual wording of the AISD Public Complaint policy (attached as Exhibit 4 to my affidavit) only prohibits "unlawful retaliation". The policy does not require the retaliation to be in the form of retaliation in the form of AISD policy. Dr. Cavazos and Dr. Hill have both added words to the AISD retaliation policy that do not appear in the policy. By doing so, they have made a unilateral and unauthorized amendment to policy prohibiting retaliation against a grievant. This is an abuse of power and should not be accepted by the Board. Only the Board of Trustees can amend AISD policy.

11. Attach the documents you relied upon at Level Three (if any) and explain how they support your position at response 5 and 6 above. Only those documents identified will be considered at Level Four.

See attached affidavit - along with six (6) exhibits attached to the affidavit.


Signature

5-17-23
Date Submitted

Name, address, and telephone and fax number of representative, if any, if not previously provided.

email - djarvis1776@icloud.com



Arlington
INDEPENDENT SCHOOL DISTRICT
More Than a Remarkable Education

May 9, 2023

Mr. David Jarvis
500 Dorcas Lane
Arlington, TX 76013

Re: Level III Grievance

Dear Mr. Jarvis:

Please accept this as a response to your grievance claiming retaliation. This letter formally confirms the denial of your Level III grievance.

Sincerely,

Dr. Marcelo Cavazos
Superintendent

Sworn Affidavit (Appeal to Level Four)

The State of Texas

County of Tarrant

David L. Jarvis, of Arlington, Texas, personally came and appeared before me, the undersigned Notary Public, and makes this his statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his knowledge:

1. On 8-12-22, I sent an email to AISD Legal Office attorney Adrienne C. Mandes and explained that the spreadsheet provided to me by the AISD Legal Office listing nearly 1000 AISD employees was useless to me because the spreadsheet did not list the section (such as equity and SEL) where each of the listed employees worked. I assumed that attorney Mandes would quickly recognize the problem and simply identify the names and work emails of the equity or SEL related employees. Instead, in her 8-15-22 reply email, attorney Mandes refused to provide the names and work emails for all AISD employees working in the equity or SEL sections. In her email, attorney Mandes told me “We are not responsible for performing additional work to assist your review of the responsive information to your requests. Accordingly, we consider PIA #470 fulfilled and no further action is required under the Act.” At no time did attorney Mandes suggest to me that my document request was overly broad – and that she could provide responsive documents if I would simply narrow the scope of my document request. Narrowing the scope of my document request was first

suggested to me by AISD Superintendent Dr. Cavazos over six months later during a Level Three grievance hearing on 3-29-23.

2. AISD Attorney Mendes's response to me was not true. For reasons explained above, the AISD Legal Office did not provide responsive information to my request. I asked for the names and work emails of all AISD employees working in the equity or SEL sections within AISD. The spreadsheet provided was structured in a manner that made it impossible for me to identify the equity or SEL employees – so the spreadsheet provided was useless to me and clearly not responsive to my request. It should be noted that AISD attorney Mandes is supervised by AISD Lead Attorney Dennis Eichelbaum.
3. Dr. Michael Hill is the AISD Assistant Superintendent for Administration. In this position, Dr. Hill is responsible for the supervision of the AISD Legal Office. On 9-14-22, I emailed Dr. Hill and explained that the AISD Legal Office refused to provide responsive information to me regarding the names and work emails of all AISD employees working in the equity or SEL sections. I asked Dr. Hill to intervene and instruct the AISD Legal Office to provide information responsive to my request. Without explanation, Dr. Hill declined to act or even acknowledge my email.
4. On 9-28-22, I again emailed Dr. Hill and asked him to contact the AISD Legal Office and ask them to simply explain the specific reason for their refusal to provide information responsive to my request. Dr. Hill ignored my email.
5. On 11-13-22, I again emailed Dr. Hill and informed him that the conduct of the AISD Legal Office that is the basis of my complaint (refusing to provide information

responsive to my request) was a willful violation of Section 552.221 of the Texas Public Information Act. Again, Dr. Hill did not respond to this email.

6. It should be noted that attorney Dennis Eichelbaum is the Lead AISD attorney. My allegations to Dr. Hill that the AISD Legal Office was failing to comply with the Texas Public Information Act was also a clear and direct criticism of attorney Eichelbaum's failure to adequately supervise the AISD Legal Office.
7. On 11-14-22, I emailed Dr. Steven Wurtz, the ASID Chief Academic Officer. Due to my unsuccessful efforts to obtain the names of Social Emotional Learning (SEL) related AISD employees from the AISD Legal Office, I contacted Dr. Wurtz directly since he appeared to be responsible for overall supervision of the SEL department within AISD. On 11-15-22, Dr. Wurtz informed me that AISD no longer had a formal SEL department – and that SEL services are now managed by the AISD Transformational Learning Division (Dr. Tamela Horton). Dr. Wurtz also suggested that any requests for information should be submitted to the AISD Public Information department for processing.
8. On 11-15-22, I emailed Dr. Wurtz and told him that I wanted to communicate with a person familiar with SEL who could answer my questions about the mission and purpose of SEL within AISD. I also told Dr. Wurtz that the AISD Legal Office informed me that the Texas Public Information Act states that a governmental body (AISD) is not required to answer any questions under the provisions of this law - but only produce documents. I explained to Dr. Wurtz that I needed to communicate

directly with an AISD employee familiar with SEL so that I could obtain answers to my SEL related questions (not documents).

9. On 11-18-22, AISD Lead Attorney Dennis Eichelbaum emailed me a response to my 11-15-22 email “on behalf of Dr. Wurtz.” In essence, attorney Eichelbaum informed me that all AISD administrators are presently unable to respond to any of my requests for information due to their “overflowing schedule”. Attorney Eichelbaum told me that I should not be offended if AISD administrators do not respond to my future requests to provide information and answer my questions. Although Mr. Eichelbaum clearly knows that the AISD Legal Office is not required by law to answer any questions (only produce documents) – Mr. Eichelbaum inexplicably also instructed me to file a public information request to the AISD Legal Office for any needed information. This email is attached as Exhibit 1 to this affidavit.
10. On 12-2-22, at 10:39 a.m., I sent an email to attorney Eichelbaum and copied the AISD Board of Trustees. This email is attached as Exhibit 2 to this affidavit. In this email, I asked Mr. Eichelbaum to support and explain his position stated in his 11-18-22 email to me. Upon receipt of Mr. Eichelbaum’s 11-18-22 email, it was obvious to me that attorney Eichelbaum was using this retaliatory email to exclusively target me and obstruct my efforts to gather information about the mission and purpose of the SEL department within AISD. To clarify attorney Eichelbaum’s intent, and determine if this email was indeed targeted and intended to apply only to my requests for information – I asked attorney Eichelbaum to answer the following questions: (see Exhibit 2):

- Please provide me with your legal authority/justification for using your 11-18-22 email to selectively target and suppress only public inquiries from a single taxpayer (me) and to selectively deny me access to AISD senior administrators.
- Is the content of your 11-18-22 email a uniform and consistent policy applied to all AISD taxpayers? Is an email like the 11-18-22 email sent to all AISD taxpayers seeking information from AISD employees? If not, why not?
- How long has this new policy stated in your Nov 18 email been in effect at AISD?
- If the content of the Nov 18 policy went into effect only on 11-18-22, what caused the sudden change in policy?

11. On 12-4-22, at 3:10 p.m., I sent an email to the AISD Board of Trustees and Superintendent Cavazos (also copied Mr. Eichelbaum). This email is attached as Exhibit 3 to this affidavit. In this email, I objected to the implementation of AISD attorney Eichelbaum's "new rules" announced in his 11-18-22 email. I pointed out that this new so-called "new policy/new rules" appear to apply only to inquiries from me and are not consistently applied to public inquiries from any other taxpayer. In this email, I told the Board of Trustees and Superintendent Cavazos that attorney Eichelbaum's so-called "new policy" seems designed to completely deny me access to any AISD employees as part of my ongoing efforts to gain more information about AISD SEL related operations and programs. Not surprisingly, the Board of Trustees ignored my 12-4-22 email – which appears to be part of their ongoing pattern to support willful concealment by AISD officials of important information about AISD

operations and programs from parents and taxpayers. By refusing to intervene and stop the lawless and unauthorized actions of attorney Eichelbaum, the AISD Board of Trustees clearly expressly approved attorney Eichelbaum's unlawful retaliatory conduct. When the AISD Board of Trustees decided to take no action following receipt of this email and reverse or rescind attorney Eichelbaum's email – the Board knowingly ratified the conduct and actions of Mr. Eichelbaum. Board ratification amounts to retroactive approval of this 11-18-22 email by the Board. Board ratification of attorney Eichelbaum's email resulted in the content of this 11-18-22 email becoming official AISD policy on 12-4-22.

12. The AISD Public Complaint Grievance policy, (GF(LOCAL)-X), is attached as Exhibit 4 to this affidavit. An express and absolute prohibition against retaliation is found on page one of this policy under the heading "Freedom from Retaliation" – which states: "Neither the Board nor any District employees shall **unlawfully retaliate** against any individual for bringing a concern or complaint." (my bold emphasis) Clearly, there is no requirement in this policy that the retaliatory conduct must be in the form of official AISD policy.

13. In the "Administration's Position" of Dr. Hill's 3-21-23 decision letter, Dr. Hill states that "Only the school board can adopt AISD policies." In the "Decision" part of his decision letter, Dr. Hill goes on to say: "Attorney Eichelbaum has not created a policy which prohibits Grievant from asking questions;" and "It does not appear that Attorney Eichelbaum nor the district has created a new policy that targets the Grievant." Dr. Hill's decision letter is attached as Exhibit 5 to this affidavit.

14. In a two-sentence letter dated 5-9-23, Dr. Cavazos denied my Level Three appeal of Dr. Hill's denial of my Level Two appeal. Dr. Hill's decision letter is attached as Exhibit 6 to this affidavit. It is strange that Dr. Cavazos chose not to explain the basis of his denial decision in his very brief denial letter. Under the circumstances – I can only reasonably conclude that Dr. Cavazos completely agrees with the basis and rationale of Dr. Hill's denial letter dated 3-21-23 and has no additional arguments to offer in support his Level Three denial of my retaliation grievance.
15. Both Dr. Hill and Dr. Cavazos have completely missed the key issue here. Dr. Hill and Dr. Cavazos have both ignored the plain reading and meaning of AISD policy – and instead have wrongfully limited the wording of the above retaliation prohibition to apply only if the retaliation is in the form of official AISD policy. Per the express wording of the policy, any form of retaliation is unlawful. Although Dr. Hill based his ruling on the fact that attorney Eichelbaum's email was not "official AISD policy", there is no express requirement in Exhibit 4 (policy statement) that unlawful retaliation conduct must be in the form of official AISD policy. The broad scope of the phrase "unlawfully retaliate" is clearly not limited to retaliation conduct in the form of a formal AISD policy. Such a limitation is not found in AISD grievance policy. Both Dr. Hill and Dr. Cavazos have lawlessly acted to improperly limit the plain wording of the unlawful retaliation prohibition. Without the authority and approval of the Board, both Dr. Hill and Dr. Cavazos have wrongly unilaterally amended the AISD grievance policy that only the Board can amend.

16. For retaliation to take place -- it does not matter how we label or describe the conduct in question. Retaliatory conduct can be through official AISD policy, or (as in this case) unlawful retaliation was through misconduct by an individual (attorney Eichelbaum) acting on behalf of AISD. The word used to describe Mr. Eichelbaum's conduct is not relevant, because the effect on grievant Jarvis is the same. Mr. Eichelbaum's retaliatory conduct was clearly intended to and did in fact deny and obstruct taxpayer Jarvis's access to AISD senior officials and employees. Every taxpayer has the right to communicate with and ask questions of AISD employees about AISD operations and programs funded with tax dollars.

17. Attorney Eichelbaum's misconduct (reflected in his 11-18-22 email to me) is clearly designed to retaliate against me and obstruct my efforts to gain additional information about AISD SEL related operations and programs. Attorney Eichelbaum's retaliatory conduct was in direct response to my concerted efforts (explained in more detail in prior paragraphs) to lawfully obtain information about the mission and purpose of SEL within AISD, to include the following efforts:

- On 9-14-22, I emailed Dr. Hill and explained that the AISD Legal Office had unlawfully refused to provide responsive information to me regarding the names and work emails of all AISD employees working in the equity or SEL sections. I asked Dr. Hill to intervene and instruct the AISD Legal Office to provide information responsive to my request;
- On 11-13-22, I again emailed Dr. Hill and informed him that the conduct of the AISD Legal Office that is the basis of my complaint (refusing to provide

information responsive to my request) was a willful violation of Section 552.221 of the Texas Public Information Act. I also told Dr. Hill that the reckless and irresponsible conduct of the AISD Legal Office is directly responsible for AISD to be guilty of these ongoing violations of Texas state law;

- It should be noted that attorney Dennis Eichelbaum is the Lead AISD attorney. My allegations that the AISD Legal Office was failing to comply with the Texas Public Information Act was also a direct criticism of attorney Eichelbaum's clear failure to adequately supervise the AISD Legal Office; and
- After I filed a my first AISD grievance on 11-9-22, I continued to request answers to four questions relating to AISD policy guidance to teachers. In support of that grievance, I persisted in my efforts to attempt to contact and ask questions of AISD employees to gain information and thus give me a better understanding of the mission and goals of the AISD SEL program. In response to my ongoing efforts to obtain relevant SEL information from Dr. Wurtz, attorney Eichelbaum sent me his 11-18-22 email which was clearly designed to unlawfully retaliate against me and obstruct my efforts to seek information about SEL operations and programs within AISD.

18. My unlawful retaliation claim is solely based on the misconduct of attorney Eichelbaum. It is totally irrelevant whether his misconduct was or was not in the form of AISD Board approved official policy. Eichelbaum's unlawful retaliation clearly

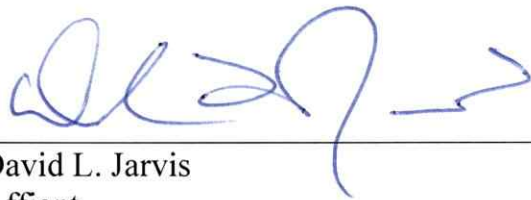
represented his unilateral and unauthorized targeted attempt to stop, frustrate and/or at least deter my future investigative efforts.

19. In their respective decision letters, both Dr. Hill (Level Two) and Dr. Cavazos (Level Three) inexplicably ignored my allegations that Mr. Eichelbaum's 11-18-23 email was targeted retaliation and meant to be applied only to my inquiries. In paragraph 10 of this affidavit, I listed several questions, the answers to which would clearly support (or contradict) my claim that the Nov 18 email was an act of unlawful retaliation against me. Neither Dr. Hill nor Dr. Cavazos did their duty to "investigate as necessary" my grievance complaint (per AISD Board policy). If Dr. Hill and Dr. Cavazos were serious about fulfilling his duties as hearing officers, they would have properly investigated and insisted that Mr. Eichelbaum respond to these questions listed in paragraph 10 of this affidavit. Although targeting a taxpayer as part of an act of unlawful retaliation is a very serious charge – it appears that neither Dr. Hill nor Dr. Cavazos made any serious effort to investigate this targeted retaliation charge.
20. All AISD employees are paid with public tax funds and are thus expected to be reasonably available and responsive to all public inquiries about AISD operations and programs. All AISD parents and taxpayers are entitled to receive equal treatment and responsive answers within a reasonable time frame to their questions about AISD operations and programs. The clear purpose of Mr. Eichelbaum's 11-18-22 email was to unlawfully target me and thus deny me equal treatment and a fair opportunity to at least present my questions to AISD employees.

21. If AISD believes any factual statements in this affidavit are not accurate, please inform me and I will take appropriate action as needed to revise this affidavit.

All statements made are of my own knowledge and are true and correct.

Dated and executed this 17th day of May 2023.



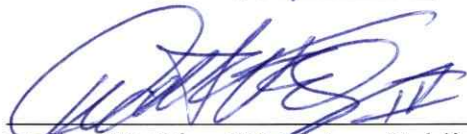
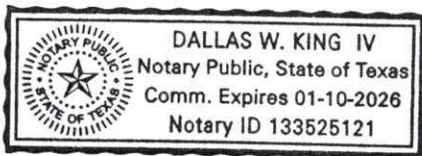
David L. Jarvis
Affiant

The State of Texas

County of Tarrant

Before me, Dallas W. King IV, Notary Public, on this day personally appeared David L. Jarvis, known to me to be the person whose name is subscribed to the foregoing sworn affidavit under penalty of perjury, and acknowledged to me that they voluntarily executed this affidavit.

Given under my hand and official seal this day, May 17, 2023.



Dallas W. King IV, Notary Public, State of Texas
My commission expires: 01-10-2026

djarvis1776@icloud.com

From: Dennis Eichelbaum <dje@edlaw.com>
Sent: Friday, November 18, 2022 4:46 PM
To: David Jarvis; 'Steven WURTZ'; thorton3@aisd.net
Cc: Aaron Boals
Subject: RE: Desire to speak with AISD person overseeing SEL mission at AISDs

Mr. Jarvis:

On behalf of Dr. Wurtz and all of AISD let me thank you for your sincere interest in AISD and its students. As you may be aware, AISD currently serves 56,201 students. AISD consists of 75 academic campuses, as well as numerous other facilities. AISD currently employs approximately 8,436 employees, plus approximately 880 substitute employees. Serving and managing all those individuals, you understand that eight to ten hours a day are typical hours for AISD administrators, and that amount of time barely enables them to handle all their job duties. They do this work for the benefit of the children; they do this work because education matters, and it builds a foundation for these children to become prospering adults.

All of AISD's Administrative Leadership Team serve the children of AISD in all their efforts. They regularly meet with parents, employees, and fellow administrators to serve the students of AISD. They meet with colleges, other local governmental entities, the Texas Education Agency, and the Regional Service Center on a regular basis to serve the students of AISD. Because the priority of AISD's administration is to focus their efforts on the students, they are not able to carve out time to also meet with every member of the public who wishes an audience with them. They all welcome ideas and suggestions, and that is why they make their contact information public, to enable you and others to email your thoughts. But it is simply not reasonable to expect them to put everything aside during their overwhelming schedule to answer each email and question or to meet with every individual who would like to meet with them; there is not enough time in the day to do that and to also serve our children in the manner our students deserve. I am sure you understand they must prioritize their time to most effectively and efficiently serve their core focus: the students.

Please understand that this is not meant to diminish your concerns or your thoughts, but rather an explanation of why these administrators are not able to fit you into their overflowing schedule. They welcome you sharing your ideas and suggestions, and they do read your emails.

Please do not take offense if you continue to reach out to school administrators for information and to ask questions and they do not respond. The answer will always be the same; if you need records and information file a public information request.

I wish you a safe, happy, and healthy Thanksgiving.

With sincere appreciation,

Dennis

Dennis J. Eichelbaum
Managing Shareholder

Eichelbaum Wardell

Hansen Powell & Muñoz, P.C.

djarvis1776@icloud.com

From: David Jarvis <djarvis1776@icloud.com>
Sent: Friday, December 2, 2022 10:39 AM
To: 'Dennis Eichelbaum'; 'Steven WURTZ'; thorton3@aisd.net
Cc: 'Melody Fowler'; mcavazos@aisd.net
Subject: RE: Desire to speak with AISD person overseeing SEL mission at AISDs

Mr. Eichelbaum,

Your email sent to me on Nov 18 at 4:46 pm was not a response, but an attempt to unlawfully deny all AISD taxpayers access to AISD employees with questions about school district operations. **In my view, AISD employees are paid with taxpayer funds and are thus accountable to AISD taxpayers. Accountability of public officials is not possible unless taxpayers are given access to AISD employees and receive truthful and transparent answers to taxpayer questions.**

I have read your email responses carefully. I will stop sending emails and making efforts to contact public officials until you respond to my email sent to you on 11-30-22 at 5:12 pm. **I will not accept your position denying me access to public officials until you fully and adequately respond to the following questions:**

- **Please provide me with legal authority to support your position stated in your Nov 18 email. Your email informed me that every AISD taxpayer who desires to communicate with any AISD employee about school district business should expect that all AISD employees will be too busy for the indefinite future to communicate with any AISD taxpayer in any manner – whether with an in person meeting, a phone conversation, or via an exchange of emails.**
- **If this is a uniform policy applied to all AISD taxpayers, have you caused the content of your new policy stated in your Nov 18 email to be sent to every AISD taxpayer seeking to communicate with any AISD employee?**

If not, why not?

- **How long has this new policy stated in your Nov 18 email been in effect at AISD?**
- **If this new policy went into effect on 11-18-22, what caused the sudden change in policy ?**

Respectfully,
David Jarvis

From: Dennis Eichelbaum <dje@edlaw.com>
Sent: Wednesday, November 30, 2022 4:12 PM
To: David Jarvis <djarvis1776@icloud.com>; 'Steven WURTZ' <swurtz@aisd.net>; thorton3@aisd.net
Subject: RE: Desire to speak with AISD person overseeing SEL mission at AISDs

Mr. Jarvis:

I responded on Mr. Wurtz's behalf at 4:46 p.m. on November 18. Please read our email responses carefully so that you do not send repetitive emails that unnecessarily use your time and AISD's time. AISD is happy to provide you records consistent with the Texas Public Information Act, but we do not interpret them or explain them to you, and there is no statutory obligation to respond to all of your emails, nor is there a deadline for email responses when they are answered.

With sincere appreciation,

Dennis

Dennis J. Eichelbaum
Managing Shareholder

Eichelbaum Wardell

Hansen Powell & Muñoz, P.C.

5801 Tennyson Parkway, Suite 360 | Plano, TX 75024 P (972) 377-7900 | F (972) 377-7277 | Cell (972) 567-2963 website | email | map

CONFIDENTIALITY: This email message is intended only for the personal and confidential use of the designated recipient(s). **This message may be an attorney-client communication, and as such is privileged and confidential.** If the reader of this message is not an intended recipient, any review, use, dissemination, forwarding, or copying of this message is strictly prohibited. Please notify us immediately by reply-email or telephone, and delete the original message and all attachments from your system. Thank you.

“Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.” Margaret Mead

From: David Jarvis <djarvis1776@icloud.com>
Sent: Wednesday, November 30, 2022 3:30 PM
To: 'Steven WURTZ' <swurtz@aisd.net>; thorton3@aisd.net
Cc: Dennis Eichelbaum <dje@edlaw.com>
Subject: RE: Desire to speak with AISD person overseeing SEL mission at AISDs

CAUTION: Do not click links or attachments unless you know the content is safe.

Dr. Wurtz,

I would appreciate the courtesy of a response to my attached email sent to you on 11-18-22.

Thanks
David Jarvis

From: David Jarvis <djarvis1776@icloud.com>
Sent: Friday, November 18, 2022 10:53 AM
To: 'Steven WURTZ' <swurtz@aisd.net>; 'thorton3@aisd.net' <thorton3@aisd.net>
Cc: 'dje' <dje@edlaw.com>
Subject: RE: Desire to speak with AISD person overseeing SEL mission at AISDs

Dr. Wurtz,

I would like to schedule a meeting with someone who can answer my questions about the mission and goals of SEL within AISD.
Should I reach out and schedule a meeting with Dr. Horton or do you suggest I contact someone else? If I do not hear from you, I will contact Dr. Horton.

Thanks
David Jarvis

djarvis1776@icloud.com

From: David Jarvis <djarvis1776@icloud.com>
Sent: Sunday, December 4, 2022 3:10 PM
To: 'Melody Fowler'; chapa.aisd@gmail.com; sarahforaisd@gmail.com; areich.aisd@tx.rr.com; david@wilbanksforaisd.com; 'John Hibbs'; keciaforarlington@gmail.com
Cc: mcavazos@aisd.net; 'Dennis Eichelbaum'
Subject: New AISD policy denying Jarvis access and opportunity to communicate with any AISD employees (by personal visit, phone call or email exchanges)
Attachments: Jarvis, David - Level 1 Grievance 11.28.22.pdf

President Fowler and other members of the AISD Board of Trustees,

FYI ---attached is an email sent to me on 11-18-22 by AISD Legal Office attorney Dennis Eichelbaum. The new policy stated in this email appears to be targeted and only apply to me -- and not a standard policy consistently applied to all inquiries to AISD employees from any other AISD taxpayer. It appears designed to obstruct my access to contact and communicate with any AISD employees about any subject matter. . I am particularly interested in speaking with AISD employees working in AISD SEL and equity related programs. These discussions would help me better understand the mission and goals of the AISD SEL and equity related programs. Attorney Eichelbaum seems determined to deny me access to AISD employees and an opportunity to communicate with them as part of my ongoing efforts to gain information about AISD operations and programs.

Also attached if a copy of a recent grievance filed against the AISD Legal Office and Board of Trustees.

Respectfully,
David Jarvis

From: Dennis Eichelbaum <dje@edlaw.com>
Sent: Friday, November 18, 2022 4:46 PM
To: David Jarvis <djarvis1776@icloud.com>; 'Steven WURTZ' <swurtz@aisd.net>; thorton3@aisd.net
Cc: Aaron Boals <amb@edlaw.com>
Subject: RE: Desire to speak with AISD person overseeing SEL mission at AISDs

Mr. Jarvis:

On behalf of Dr. Wurtz and all of AISD let me thank you for your sincere interest in AISD and its students. As you may be aware, AISD currently serves 56,201 students. AISD consists of 75 academic campuses, as well as numerous other facilities. AISD currently employees approximately 8,436 employees, plus approximately 880 substitute employees. Serving and managing all those individuals, you understand that eight to ten hours a day are typical hours for AISD administrators, and that amount of time barely enables them to handle all their job duties. They do this work for the benefit of the children; they do this work because education matters, and it builds a foundation for these children to become prospering adults.

All of AISD's Administrative Leadership Team serve the children of AISD in all their efforts. They regularly meet with parents, employees, and fellow administrators to serve the students of AISD. They meet with colleges, other local governmental entities, the Texas Education Agency, and the Regional Service Center on a regular basis to serve the students of AISD. Because the priority of AISD's administration is to focus their efforts on the students, they are not able to carve out time to also meet with every member of the public who wishes an audience with them. They all welcome ideas and suggestions, and that is why they make their contact

| | |
|----------------------------------|--|
| Complaints | <p>In this policy, the terms "complaint" and "grievance" shall have the same meaning.</p> |
| Other Complaint Processes | <p>Complaints by members of the public shall be filed in accordance with this policy, except that complaints concerning instructional resources shall first be filed in accordance with EF, with appeals submitted in accordance with GF after the relevant complaint process.</p> <p>Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 calendar days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]</p> |
| Guiding Principles | <p>The Board encourages the public to discuss concerns with an appropriate administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.</p> |
| Informal Process | <p>Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.</p> |
| Formal Process | <p>An individual may initiate the formal process described below by timely filing a written complaint form.</p> <p>Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual whose concerns are resolved may withdraw a formal complaint at any time.</p> <p>The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.</p> |
| Freedom from Retaliation | <p>Neither the Board nor any District employee shall unlawfully retaliate against any individual for bringing a concern or complaint.</p> |
| General Provisions | <p>Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the</p> |
| Filing | |

PUBLIC COMPLAINTS

GF
(LOCAL)

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| | <p>appropriate administrator or designated representative no more than three days after the deadline.</p> |
| Scheduling Conferences | <p>The District shall make reasonable attempts to accommodate scheduling conflicts for hearings. If the individual fails to appear at a scheduled conference, the District may hold the conference and issue a decision in the individual's absence.</p> |
| Response | <p>At Levels One, Two, and Three, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's email address of record, or sent by U.S. Mail to the individual's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.</p> |
| Days | <p>"Days" shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."</p> |
| Representative | <p>"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process.</p> <p>The individual may designate a representative through written notice to the District at any level of this process. If the individual designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.</p> |
| Consolidating Complaints | <p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.</p> |
| Untimely Filings | <p>All time limits shall be strictly followed unless modified by mutual written consent.</p> <p>If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.</p> |

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Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint, including copies.

Complaint and
Appeal Forms

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the individual does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the individual unless the individual did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

Level One

Complaint forms must be filed:

1. Within 15 days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Three following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the individual within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she may request a

conference with the Level Two administrator to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The individual may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the individual may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

The Level Two administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she may request a conference with the Superintendent or designee to appeal the Level Two decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

After receiving notice of the appeal, the Level Two administrator shall prepare and forward a record of the Level Two appeal to the Level Three administrator. The individual may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the Level Two administrator in reaching the Level Two decision.

The Level Three conference shall be an informal conference. The conference may be recorded. The purpose of the Level Three conference is to determine if any administrative resolution is available that the complainant and the administration can agree upon absent further appeal. If a resolution is agreed upon, then the appeal is concluded.

Absent extenuating circumstances, the Level Three administrator shall provide the individual a written response within ten days following the conference.

Recordings of the Level One, Level Two, and Level Three conferences, if any, shall be maintained with the Level One, Level Two, and Level Three records.

Level Four

If the individual did not receive the relief requested at Level Three or if the time for a response has expired, he or she may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Three response or, if no response was received, within ten days of the Level Three response deadline.

The Superintendent or designee shall inform the individual of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the lower level appeals. The individual may request a copy of the Level Three record.

The Level Three record shall include:

1. The Level One record.
2. The Level Two record.
3. The notice of appeal from Level Two to Level Three.
4. The written response issued at Level Three and any attachments.
5. All other documents relied upon by the administration in reaching the Level Three decision.

The appeal shall be limited to the issues and documents considered at Level Three, except that if at the Level Four hearing the administration intends to rely on evidence not included in the Level Three record, the administration shall provide the individual notice of the nature of the evidence at least three days before the hearing.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Four presentation. The Level Four presentation, including the presentation by the individual or his or her representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Three.



Affidavit Exhibit No. 5
Level Four Appeal (Board)
Grievant David L. Jarvis
Filing Date: 5-17-23

March 21, 2023

Mr. David Jarvis
500 Dorcas Lane
Arlington, TX 76013

Delivered by electronic mail to:
djarvis1776@icloud.com

RE: Level II Grievance

Dear Mr. Jarvis:

This communication serves as the decision to your Level II Grievance filed on February 16, 2023. The Level II Grievance conference was held on March 3, 2023. Present at the hearing were: Yourself-Mr. David Jarvis-(Grievant) and Dr. Michael Hill-Assistant Superintendent of Administration and the Level II Hearing Officer.

BACKGROUND:

Grievant has submitted several email requests to district staff. Grievant shared that he received an email from AISD attorney, Dennis Eichelbaum on November 18, 2022 stating that Grievant should not be offended if AISD administrators do not respond to any of the Grievant's question due to "overflowing schedules." The Grievant contends that a new "special policy" was established to obstruct his effort to pursue his concerns about the AISD SEL Department by denying him access to and an opportunity to ask questions of AISD employees about the AISD SEL program.

RELIEF SOUGHT:

Grievant seeks the following. Grievant requests the District cease its' unlawful retaliation against his efforts to gain additional information about AISD operations and programs. Grievant also requests the Board of Trustees "stand up and do their job and put distance and daylight between the Board and Attorney Dennis Eichelbaum, and not allow Attorney Eichelbaum to retaliate against Grievant."

ADMINISTRATION'S POSITION:

Only the school board can adopt AISD policies. As outlined in Board policy DIA Local, retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited. In his November 18 email to the Grievant, Attorney Eichelbaum informed the Grievant to not take offense if the administration did not respond immediately to emails and questions. Attorney Eichelbaum also directed the Grievant to request information through the Public Information Request process. Neither of these actions, on the surface, are considered retaliation. Prior to that date, and since that date, the Grievant has sent subsequent emails and made additional requests for records, and each have been responded to in a timely and appropriate manner by the district. If there were retaliation, or elements thereof, the District would have ceased any and all communications with the Grievant.

DECISION:

Based on the information presented at the grievance conference, Attorney Eichelbaum has not created a policy which prohibits Grievant from asking questions. It does not appear that Attorney Eichelbaum nor the District has created a new policy that targets the Grievant. As a result, any and all further relief requested is expressly denied.

All relief not specifically granted above is denied. You have the right to appeal this decision in accordance with the Arlington ISD Board Policy DGBA (LOCAL).



Arlington
INDEPENDENT SCHOOL DISTRICT
More Than a Remarkable Education

Sincerely,

Dr. Michael Hill
Assistant Superintendent of Administration
Level II Hearing Officer



Affidavit Exhibit No. 6
Level Four Appeal (Board)
Grievant David L. Jarvis
Filing Date: 5-17-23

May 9, 2023

Mr. David Jarvis
500 Dorcas Lane
Arlington, TX 76013

Re: Level III Grievance

Dear Mr. Jarvis:

Please accept this as a response to your grievance claiming retaliation. This letter formally confirms the denial of your Level III grievance.

Sincerely,

Dr. Marcelo Cavazos
Superintendent