

DAVIS GRAHAM & STUBBS

REPORT OF INVESTIGATION CONCERNING MATTERS INVOLVING THE DENVER EAST HIGH SCHOOL 2017/2018 CHEER TEAM

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DAVIS GRAHAM & STUBBS

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Superintendent Tom Boasberg
Denver Public Schools
1860 Lincoln Street
Denver, Colorado 80203

RE: REPORT OF INVESTIGATION CONCERNING MATTERS INVOLVING THE DENVER EAST HIGH SCHOOL 2017/2018 CHEER TEAM

On August 25, 2017, Tom Boasberg, Superintendent of School District No. 1 in the City and County of Denver, more commonly referred to as Denver Public Schools (hereinafter referred to as “DPS”), asked the law firm of Davis Graham & Stubbs LLP to serve as legal counsel to conduct an investigation, and to prepare a report regarding facts and events that had come to his attention earlier that week pertaining to the 2017/2018 East High School Cheer Team, as described in more detail below.

Sybil Kiskien, a Partner at Davis Graham & Stubbs LLP, and Mark Flynn, Principal, Employment Matters LLC Flynn Investigations Group, who was working at the direction of Davis Graham & Stubbs LLP, were the primary investigators. Chad Williams, a Partner, and David Holman, an Associate, at Davis Graham & Stubbs LLP (“DGS”), also participated in the investigation.¹ Ms. Kiskien and Mr. Williams prepared and now submit this Report to DPS.

BACKGROUND

On August 23, 2017, the Superintendent became aware of an exercise involving the side splits that had been used with East Cheer Team members during a camp that was held at East the week of June 5-9, 2017 (“Camp”). This exercise will be referred to in this Report as the “Side Splits Stretch.”² Among other things, the Superintendent also became aware that day that eight videos

¹Marina Reed, Dana Risch, and Scott Barnes, internal investigators with DPS, also witnessed some of the interviews, and DGS appreciates their time and professionalism. Similarly, Debbie Werth, a Paralegal at DGS, provided invaluable assistance with this investigation.

²The exercise that the students are performing in the videos discussed herein, and that led to this investigation, were described in various ways during the investigation, including as the “forced splits.” However, since not all individuals referred to them as the “forced splits” and in the interest of consistency and neutrality, unless quoting a person or a document, this Report will use the term “Side Splits Stretch.”

of students doing the Side Splits Stretch had been sent to DPS employees on June 15, 2017 (hereinafter referred to as the “8 Cheer Videos”).

To facilitate the investigation, on August 23, 2017, DPS put the following employees on administrative leave: East Principal Andy Mendelsberg, East Assistant Principal/Athletic Director Lisa Porter, East Cheer Coach Ozell Williams, East Assistant Cheer Coach Mariah Cladis, and District Deputy General Counsel Michael Hickman. On August 25, 2017, DPS terminated Mr. Williams’s employment based on his use of the Side Splits Stretch.

SCOPE

DPS’s objective in hiring DGS, and the scope of the investigation conducted by DGS, was to determine who knew what and when, both at East and at the District³ level, with regard to the Side Splits Stretch being used in connection with the 2017/2018 East Cheer Team, the safety of these students, and the concerns of these parents, and what the employees did or did not do in response to such information (hereinafter referred to as the “Scope”).

INVESTIGATION

DGS investigated by conducting witness interviews, and reviewing documents, videos, and other information. (Although students, parents, and various documents are referenced in this non-privileged public Report, the names of the students and parents are not disclosed and the documents are not attached to this Report.)⁴

All of the 27 current and former members of the 2017/2018 East Cheer Team were invited to participate in this investigation.⁵ Five current families (six parents and four students) chose to participate, as well as a parent from last year’s team with whom the investigators requested to meet. DGS greatly appreciates the statements and perspectives of all six participating families, their invaluable insights, and the time that they shared with the investigators. In addition, the investigators, through their interviews and review of documents and other information, learned about the young women on the Cheer Team to varying degrees. We respect their strength, resilience, and the varying perspectives they have voiced concerning this matter.

The investigators also interviewed twenty current and former DPS employees, including Mr.

³To differentiate between employees who work at East and employees who work in DPS’s central administrative departments, this Report will refer to DPS’s central administrative departments as “the District.”

⁴By issuing this non-privileged Report, DPS does not waive any of its privileges, including the work product and attorney-client privileges. To the contrary, DPS expressly invokes and avails itself of all such privileges.

⁵Between DPS and DGS, Cheer families were invited to participate through multiple communications.

Mendelsberg, Ms. Porter, Mr. Williams, Ms. Cladis, and Mr. Hickman, all of whom are listed on **Exhibit A**. Several key witnesses spent significant time, over multiple days, being interviewed. DGS greatly appreciates their time and cooperation as well.

For various reasons, including that some individuals chose not to participate in the investigation, DGS did not interview every witness that potentially could have relevant information concerning the issues investigated, or review every document that potentially could be relevant. This also was partly due to DPS's desire to have a reasonably prompt resolution of the issues addressed in this Report to permit East, its students and families, and its employees to have some closure in this matter. Nevertheless, DGS interviewed key witnesses and reviewed key documents and other information to conduct a fair and in-depth investigation, and to prepare this Report.

Finally, some of the matters investigated by DGS (particularly, certain videos of the Side Splits Stretch) have been the subject of considerable media coverage. This did not influence the direction of the factual investigation conducted by DGS or its factual findings. Similarly, DGS did its work separately from any law enforcement investigation related to this matter. DGS did not collaborate with law enforcement to discover facts or to arrive at its factual findings as set out in this Report.

FACTUAL FINDINGS

The following factual findings are those most relevant to the Scope of the investigation. They are not intended to be a full recitation of all of the statements provided in the interviews or all of the documents and other evidence reviewed by the investigators.

The general time period focused on in this Report is March 27, 2017, when Mr. Williams sent an email to Ms. Porter expressing interest in the East coaching job, until August 23, 2017, when Mr. Mendelsberg, Ms. Porter, Mr. Williams, Ms. Cladis, and Mr. Hickman were put on administrative leave.⁶

A. East High School and Mr. Mendelsberg, Ms. Porter and Mr. Williams

East High School is the largest high school in DPS, with approximately 2,500 students. During the relevant time period, Mr. Mendelsberg served as the Principal, Ms. Porter served as the Assistant Principal/Athletic Director, and there were seven other Assistant Principals (Terita Berry, Scarlet Chopin, Joe Glover, Nate Grover, Jason Maclin, John Najmulski, and Jann Peterson). The eight Assistant Principals, as well as the Office Manager, report directly to Mr. Mendelsberg.

Among numerous other non-sports-related job duties, Ms. Porter is responsible for overseeing the approximately 24 sports at East, as well as three club teams. Her duties include hiring and supervising the head coaches, including the coach of the East Cheer Team. Ms. Porter also

⁶Virtually all relevant dates are in 2017, so the year (2017) is not repeated each time a date is mentioned herein, unless another year is relevant.

supervises Lisa Smith in her capacity as an Athletic Trainer (Ms. Smith is also a teacher at East). Ms. Porter's assistant is Lisa Cunningham, an Office Support II.

Mr. Mendelsberg has worked at East for approximately 19 years in various administrative positions, including as Principal since February 2012 according to District human resources records. He has worked for DPS for approximately 26 years. During the investigation, he said, *"I spent 26 years of my life trying to help kids—I would never do anything to jeopardize kids and I would do anything to help kids get better."*

Similarly, Ms. Porter has worked at East for approximately 17 years (although not consecutively), both as a teacher and in various administrative positions, including as Athletic Director since July 2012. During the investigation, she said, *"I put kids first and they are my priority. I care about kids and I would never intentionally do anything to put them in harm's way."*

The investigators believe Mr. Mendelsberg's and Ms. Porter's passion for the students at East and for their respective jobs to be genuine.

In addition, Mr. Williams, who served as East's Cheer Coach for approximately four months, exhibited a genuine interest in helping the students grow as athletes. He said, *"I would never intentionally hurt any of my athletes or any kids at all."*

Although technically beyond the Scope of the investigation, we note that various witnesses, including all five of the current Cheer Team families interviewed, had positive things to say about Mr. Williams, Mr. Mendelsberg, and Ms. Porter. In a clear expression of support, one student and her parents (and the student's sibling) wore "Mile High Tumblers" t-shirts to the interview. (Mile High Tumblers is Mr. Williams's company.)

Some families were critical of how this matter has been handled, and expressed that they did not think Mr. Williams should have been terminated (much less before this investigation), and they think he should be re-hired. Some families did not have a concern with the Side Splits Stretch and appreciated the work Mr. Williams did with the students as athletes, including Parents 1, 4, 8, and 9, and Students A, C, D, and E. Indeed, Student E specifically tried out for the East Cheer Team knowing Mr. Williams would be the coach to further her goal of getting a cheer scholarship to college. Some families expressed concern about how the videos were shared with the media (they were not shared by DPS), including in particular Parent 2.

Certain witnesses expressed that Ms. Porter is detail-oriented and an incredibly hard worker, which was apparent to the investigators. Some families expressed that they wish Ms. Porter and Mr. Mendelsberg could return from administrative leave.

B. Mr. Williams's Hiring as the 2017/2018 East Cheer Coach

Due to challenges during the prior Cheer season, an issue that is beyond the Scope of this Report, Ms. Porter conducted a focus group of students as one of the first steps in hiring a coach for the 2017/2018 season. With their input, Ms. Porter created a rubric regarding qualities they wanted to see in a Cheer Team coach, which she shared with Mr. Williams after he was hired.

On March 27, Mr. Williams emailed Ms. Porter to express his interest in the job. He said he had been certified through DPS and had coached tumbling and cheer at Montbello High School.⁷ On April 4, he emailed Ms. Porter again and included a resume that referenced various positions, including most recently contract and volunteer experience in 2015-2016 with Montbello High School and contract experience in 2013-2015 with Boulder High School. (Mr. Williams's on-line application with the District, however, did not reference Boulder High School.)

Ms. Porter notified Mr. Williams the job had been posted, and thereafter he applied pursuant to DPS's standard application process. The first round of interviews was conducted by a committee comprised of Ms. Porter, Assistant Principal Terita Berry (who is a former coach of the East Cheer Team and a former professional cheerleader), a parent, a former parent, and two students. As a result of the first round of interviews, Mr. Williams and another candidate were selected as the final candidates. Mr. Williams and the other candidate each held a mock practice with students, and the students provided their input with respect to the two candidates. The students overwhelmingly expressed their desire to have Mr. Williams be their coach, although the two students who participated on the committee preferred the other candidate.

Before the final interviews, Ms. Porter checked references that Mr. Williams and the other candidate had provided, even though she indicated she is not required to do so as the District has its own process for checking references after an offer is made. However, she wanted to check some of the references herself, and the two references she checked for Mr. Williams were positive.

Ms. Porter did not contact every prior employer listed on his resume, and did not contact anyone at FNE or at Boulder High School. However, the investigators found no evidence that Ms. Porter or any employee involved in the hiring process at East was aware of any issues related to Mr. Williams's alleged use of the Side Splits Stretch at any other school, including FNE or Boulder High School.⁸

On April 17, Mr. Mendelsberg, Ms. Porter, and Ms. Berry conducted a final interview of each of the two candidates and ultimately decided to offer the job to Mr. Williams, which he accepted.

⁷Montbello High School closed after the last senior class graduated in the spring of 2014. In its place, various schools operate in or near the area that is sometimes referred to as the Montbello campus. The athletics for these schools are under the Far Northeast Warriors Athletic Program, also referred to as "FNE." Some people still refer to FNE as "Montbello," including Mr. Williams.

⁸Although there have been allegations of Mr. Williams's use of the Side Splits Stretch at other schools, including at FNE and Boulder High School, that issue is beyond the Scope of this Report.

Thereafter, Mr. Williams completed the on-boarding process through the District's Human Resources Department ("District HR").⁹ As part of that process, District HR conducted an on-line based reference check pursuant to which Mr. Williams provided contact information for six different references. Some or all of his references then responded to on-line questions. A report of their responses did not reveal any negative comments about Mr. Williams.

C. The 2017/2018 East Cheer Team

An email was sent to the East Cheer community on April 26, announcing that Mr. Williams would be the new Cheer Team coach. In late April/early May, Mr. Williams held clinics for interested students to practice for Cheer Team try-outs. The maximum number of students who can be on the team is 25, and according to Ms. Porter, approximately 36 students tried out for the team. Since the initial 25 students were selected for the Cheer Team, six students have quit and two students have been added. Therefore, the current roster for the 2017/2018 Cheer Team has 21 students.

None of the six students who quit the Cheer Team participated in this investigation, despite an invitation to do so. Ms. Porter indicated that three of them quit for reasons unrelated to the Side Splits Stretch. This was corroborated at least in part by emails about one student (who said she was quitting due to other commitments) and another student who quit right after try-outs.

The other three students appear to have quit based on concerns related to Mr. Williams, including at least two whose parents stated in emails that their daughters were quitting due to the Side Splits Stretch, in addition to other issues (described further herein). The third student appears to have stopped participating in Cheer Team activities in the summer, thereby effectively quitting, although the investigators are not aware of any written resignation for this third student. However, the parent of this student raised concerns about Mr. Williams (described further herein), including that he allegedly humiliated her. Because these three families, through their legal counsel, declined to participate in the investigation, the investigators relied on email communications, media statements and descriptions by others in order to determine some of their perspectives.

D. Events Between April 26 and June 9, Excluding the June 5-9 Cheer Camp

Between the April 26 announcement of his hiring to the East Cheer community and the June 5-9 Cheer Camp, Mr. Williams worked with Ms. Porter and Ms. Berry to familiarize himself with details related to serving as the coach of the Cheer Team. He also held various clinics, practices and at least one meeting with the students on the team, and their parents/guardians.

⁹East does not have its own human resources department. It receives human resources support from District HR.

Various concerns were raised by parents during this time period. It was beyond the Scope of this investigation to determine the accuracy of such concerns, including if they were well founded. Instead, the focus of the investigation was on what concerns were raised, how they were shared with others, and what efforts, if any, were made by East and District employees to investigate them, determine if they were well founded, and address them.

1. Concerns from Parent 1¹⁰

Parent 1 participated in an interview. On April 28, Parent 1 emailed Ms. Porter about concerns with Mr. Williams that were not related to the Side Splits Stretch or anything related to the physical activities involving the students, but instead related to his alleged failure to respond to an email and his communications with the students. Parent 1 wrote in part: *“I hear[d] about the practice tonight that he asked the girls to write down two girls they have a problem with and that it was mandatory to do so. This is not the way to build a team.”* Ms. Porter responded, *“I’m sorry to hear this. I will connect with Coach Ozell and share this feedback.”* Ms. Porter indicated that she subsequently spoke with Mr. Williams and conveyed this was not appropriate. Parent 1 indicated that Parent 1 was unaware of the substantive response to her concerns, although Ms. Porter did call her.

On June 4, Parent 1 emailed Ms. Porter again and raised the need for a parent cheer meeting because Parent 1 wrote: *“I feel Ozell is overstepping his boundaries as coach by requiring to follow all the girls on all social media channels and now requiring [them] to download My Fitness Pal app to monitor activity levels and food intake. Since the parents are collectively paying \$60,000 to fund the program we deserve the simple courtesy of respect and the decency to have a meeting and all our questions answered prior to forking over the first payment of \$500 on 6/9.”* Again, Parent 1’s email did not reference any concerns related to the physical activities of the students. Ms. Porter responded on June 5 by indicating that she had received the email, and was in meetings all day and the next day, but would *“be in touch asap!”*

Thereafter, Ms. Porter and Mr. Williams had a meeting with Parents 1 on Tuesday, June 13. Parent 1 indicated at the meeting, they discussed the various concerns, and a parent meeting for the entire team also was scheduled. Ms. Porter corroborated this by describing similar follow-up. Parent 1 did not express any concerns to Ms. Porter regarding Mr. Williams thereafter, although Parent 1 indicated that Mr. Williams continued to have challenges with organization and communication, and Parent 1 was aware of other parent concerns, which Parent 1 believes

¹⁰Although some student and parent names have been disclosed in the media and all who participated in the investigation were advised that this Report would made be public, this Report nevertheless does *not* use any student or parent names. Instead, this Report uses the convention of referring to particular parents with a number (for example, Parent 1, Parent 2, etc.), and particular students with a letter (for example, Student A, Student B) or in relation to their parent (for example, Parent 1’s daughter). There is no correlation between the Parent number and the Student letter (that is, for example, Parent 1 is not associated with Student A). Also, when two parents are referenced (when a mother and father attended a meeting, for example), they are referred to as “Parents 1,” by way of example.

Ms. Porter knew about as well. Although Parent 1 felt that Parent 1's daughter advanced a lot with Mr. Williams and seemed to like him, Parent 1 did not believe that the school handled various issues appropriately and there were "*red flags*" early on.

2. Concerns from Parent 2

Parent 2 also participated in an interview. Parent 2 supported the selection of Mr. Williams as the coach, and when he was hired, Parent 2 wrote to Ms. Porter that Parent 2's daughter was "*so excited.*"

On June 2, Parent 2 emailed Mr. Williams about a concern unrelated to the Side Splits Stretch or any physical activities with the students, but instead related to a far-away Saturday tumbling session for which Parent 2 did not have adequate notice.

On Wednesday, June 7, Parent 2 sent an email to Ms. Porter, indicating that Parent 2 had not received a response from Mr. Williams, and elaborating on at least five concerns that Parent 2 had with Mr. Williams. These concerns were also unrelated to the Side Splits Stretch or any physical activities with the students. The concerns related to what Parent 2 perceived as "*unprofessional and immature*" communications and interactions with the students and the parents, and other concerns about scheduling activities on Saturday, the expense associated with the tumbling gym, Mr. Williams's dealings with returning parents, and the role of another parent in the Cheer program. Parent 2 raised that Mr. Williams had shared Parent 2's email with the Cheer Team, which prompted Parent 2's daughter to tell Parent 2, "*don't send anymore emails because he basically called you out.*" Parent 2 described this as "*highly inappropriate, unprofessional and immature.*"

Ms. Porter initially responded with an email on June 7, indicating she would be "*happy to sit down*" with Parent 2 and Mr. Williams. Parent 2 indicated Parent 2 did not want such a meeting, but instead wanted answers to the concerns. Ultimately, Ms. Porter and Parent 2 spoke by telephone. Parent 2 says Ms. Porter went through the concerns one-by-one, and the dialogue concluded with Parent 2's agreement that Mr. Williams had potential to be a great coach.

Parent 2 told the investigators that Parent 2 felt good about the lengthy call with Ms. Porter. (Ms. Porter's office phone records reflect a 27-minute call with Parent 2 on June 8, beginning at 1:07 p.m.) Ms. Porter described the interaction with Parent 2 in a similar manner. After these initial concerns, Parent 2 did not have further issues with Mr. Williams and Parent 2 was very positive in the interview with respect to Mr. Williams, Ms. Porter, and Mr. Mendelsberg.

3. Concerns from Parent 3

On June 5, Parent 3 sent an email, with a lengthy attached letter, to Ms. Porter entitled "Cheer program concerns." The letter outlined 13 concerns Parent 3 had with Mr. Williams, including alleged concerns about: a significant increase in fees above the original budget, which allegedly may have been to support Mr. Williams's new gym; potential conflicts of interest; another parent's involvement in fundraising and collecting money; pressure for Parent 3's daughter to join Mr. Williams's private team; the practice schedule; Mr. Williams's monitoring of social

media; and concerns about his “*professionalism and communication style.*” With respect to the monitoring of social media, Parent 3 claimed that Mr. Williams was going to require them to “friend” him so he could follow their posts and make sure they were behaving appropriately. Parent 3 felt like this was a boundary issue, infringing on Parent 3’s responsibilities as a parent.

Parent 3 raised a similar concern to that of Parent 1 regarding Mr. Williams having the students write down two names of classmates the student felt should not be allowed on the team. Parent 3 alleged that Mr. Williams also instructed one student to stand in the middle of a circle, and then told the other students to “*raise their hand and give examples of why [the student] was not a good person, or why they had a problem with her.*” Parent 3 described this alleged conduct as “*humiliating*” and “*shaming.*”

The letter is long and detailed, including a concern by Parent 3 that “*[t]he relationship that is being fostered by Mr. Williams is not conducive to a productive, positive experience for me or my daughter. She is scared of the coach, and in no way feels she can talk to him about anything.*”

Parent 3 also asked, “*Does the school condone the decision to move tumbling to his personal gym despite a significant increase to the cheer bill? Even when there is another qualified gym at a lower cost?*”

There was nothing in Parent 3’s email or letter related to the Side Splits Stretch incidents or any physical activities engaged in by Mr. Williams with the students (although the June 6 Side Splits Stretch had not occurred yet when Parent 3 sent the email and letter).

On June 7, Ms. Porter wrote an email to Parent 3 stating in part, “*I did read and talk with Ozell about your concerns and I am happy to sit down with you and Ozell. This week is crazy with district meetings. Can we meet early next week?*” Parent 3 responded that rather than a meeting, Parent 3 would prefer answers to the various concerns that were set forth in the June 5 letter.

Ms. Porter subsequently called Parent 3 on June 8, and they had an hour-long call beginning at 2:44 p.m. Ms. Porter indicated she went through Parent 3’s concerns point-by-point. In her interview, Ms. Porter also related point-by-point what she discussed with Mr. Williams in follow-up. Ms. Porter felt like her discussion with Mr. Williams and the call with Parent 3 had resolved the concerns. Parent 3 did not participate in the investigation, so her view of the call is unknown.

With regard to Mr. Mendelsberg’s awareness of the concerns raised by Parents 1, 2, and 3 between April 26 and June 9, he indicated he was not copied on, and did not see, the emails from Parents 1, 2, or 3 at the time (although the email from Parent 3 was forwarded to him on June 29, as described below). However, Mr. Mendelsberg indicated he was generally aware of some concerns from Cheer Team parents around this time period, but not the details, and he trusted Ms. Porter’s handling of such concerns.

E. June 5-9 Cheer Camp and the Side Splits Stretch

Mr. Williams held a Cheer Camp for the Cheer Team in the small gym at East (also referred to as the Calloway Gym) during the week of June 5-9. The Cheer Camp was all day (morning and afternoon) for five days. On the second day of Cheer Camp, Tuesday, June 6, in the morning, most if not all of the students who were there participated in the Side Splits Stretch.

Mr. Williams and Zach Watson, a volunteer assistant coach, were present, although Mr. Watson did not participate in or assist with the Side Splits Stretch. The description of what preceded the Side Splits Stretch varies. Mr. Williams indicated the team did various stretches and preparation. Several students stated that Mr. Williams told them that when they did the Side Splits Stretch, this was the one time they could yell, scream, and use profanity.

1. Assistant Coach Cladis Was Not Present for the Side Splits Stretch

Mariah Cladis is a 2013 graduate of East High School, and participated on the Cheer Team when she was in high school. She currently is a full-time college student. As of June 6, Ms. Cladis was a volunteer assistant coach. She said that on June 6, she was present in the morning when the students practiced the middle splits. She then had to leave for another obligation, so she was not present in the small gym when the students engaged in the Side Splits Stretch. Ms. Cladis said she did not witness the students performing the Side Splits Stretch on June 6 or at any other time. Mr. Williams confirmed that Ms. Cladis was not there on June 6 while the Side Splits Stretch was conducted.

2. The Date(s) of the Side Splits Stretch

It appears that the majority of the students participated in the Side Splits Stretch on the morning of Tuesday, June 6, with the assistance of Mr. Williams and in the presence of Mr. Watson. Some witnesses said that approximately two students were absent and, possibly, that one who was there did not want to do the drill. She reportedly changed her mind later in the week.

Student A was one of the students who was absent on June 6, and she indicated she did the Side Splits Stretch later in the week, on Thursday, June 8. Although the Side Splits Stretch incidents occurred primarily on June 6, it is unknown on which other days the Side Splits Stretch may have been performed.

Both Parents 4 and Mr. Williams stated that Mr. Williams told approximately six parents about the Side Splits Stretch in advance of the June 6 Camp session, at a parent meeting. They indicated that Mr. Williams also explained how he would do the drill, and that the students would stretch and do other preparations for the drill. Mr. Williams and Parents 4 said that at an open practice (which occurred before June 6), Mr. Williams also explained the drill and had the students who were present do the Side Splits Stretch. In other words, Parents 4 and Mr. Williams assert that at least some parents observed Mr. Williams doing the Side Splits Stretch with the students before the June 6 Cheer Camp session. Mr. Williams stated that the earlier Side Splits Stretch was less intense than on June 6. Others denied that this occurred, and indicated that they were not aware of, and never witnessed, the Side Splits Stretch being done at any time, other than during the Cheer Camp. Although all of the parents and students with

whom the investigators spoke were credible and sincere in their description of events, the investigators do not have sufficient information to conclude that the Side Splits Stretch was conducted in the manner in which it is depicted in the 8 Cheer Videos at any time other than during the June 5-9 Cheer Camp.

3. The Side Splits Stretch

The Side Splits Stretch was described by various witnesses as a method to accelerate the progression of a student being able to do the side splits. On June 6, the students started with their right leg splits and then switched to their left legs. The non-dominant leg is more difficult, which in this case apparently was the left leg splits for many of the students.

Some of the students indicated that athletes videotaped one another while doing the Side Splits Stretch. The investigators have reviewed a total of nine videos of nine different students doing the Side Splits Stretch. The investigators reviewed the 8 Cheer Videos, and a 9th video provided during the investigation by Student A.

The investigators were told during some of the interviews that other videos exist, and that some of these videos are longer versions of the 8 Cheer Videos received by DPS. In some of those videos, the reactions of the students are not the same as (and are inconsistent with) the reactions of the students in the 8 Cheer Videos, according to certain students interviewed. However, other than the 8 Cheer Videos and the 9th video that Student A provided to the investigators, investigators have not reviewed or received any other videos of the Side Splits Stretch.

a. The 8 Cheer Videos

The 8 Cheer Videos that were transmitted on June 15 to certain East employees are labelled as Video 1 through 8 in this Report (there are different numerical identifiers on the actual videos). In each video, Mr. Williams is behind the student and, as he explained, he uses his hands to help pull her back to straighten her posture so her torso is upright. There are two students on each side holding the student's arms, and students in front and in back holding the student's feet and legs straight. The 8 Cheer Videos range from approximately 22 seconds to 1 minute and 21 seconds. In each video, each student has her left leg forward and her right leg back, and she attempts to do the side splits. In each video, after the student reaches the side split position, with her legs as near the floor as she can get them, she holds that position for a brief period of time. Each video ends with Mr. Williams quickly picking the student up and putting her on her side, which he explained makes it less painful than having the student slowly get out of the splits position. A few notable comments about the videos:

- In video #1, the student says "please stop" repeatedly and looks anguished.
- In video #2, the student has her eyes closed and looks as if she is concentrating. She starts whimpering around 32 seconds into the video and says "okay . . . okay" as if she wants to stop.
- In video #3, the student does not appear distressed at first, but when she reaches a certain point, she says, "f**k – s**t" and then "please help me – help me up."

- In video #4, the student has a facial grimace as she moves into the splits position, and then starts crying at approximately 32 seconds, and says “no” and “ow,” to which Mr. Williams responds, “relax.”
- In video #5, the student is talking at first and seems to be in some distress before even starting the drill. She appears to say, “you’re going against the bone” and “it’s hyper-extension—I can’t go all the way down.” She repeats, “I can’t go all the way down.” She is screaming and crying, and saying, “I can’t – you’re pushing too far down.” Mr. Williams says, “relax – you’re not listening.”
- In video #6, the student looks anguished and is crying, and says, “it’s going to hurt.” She says, “I can’t” repeatedly. Mr. Williams tells her to relax.
- In video #7, the student appears at first to be calmer than students in the other videos (other than in the 9th video that was received from Student A). When she gets to a certain point where it hurts, she says, “s**t, f***king, okay, okay that is enough.”
- In video #8, the student grimaces and then closes her eyes. She then says she has a cramp in her foot. She repeats this, and starts screaming and crying around 44 seconds, and says, “oh my foot.”

b. The 9th Video

During her interview, Student A showed a video that she had of herself doing the Side Splits Stretch, and she does not exhibit the same anguished reactions as seen in the 8 Cheer Videos. This 9th video was not provided to anyone at DPS during the relevant time period to the investigators’ knowledge.

c. Other Allegations Regarding the Side Splits Stretch

Regarding the sharing and posting of the videos, there were various allegations. For example, there was an allegation that Mr. Williams told the students they could not videotape the Side Splits Stretch on June 6, and they should not share the videos with anyone, including their parents. It was also stated that Mr. Williams told the students they could share the videos with their parents, but they should not post them on social media because people would not understand the context of the videos. The investigators were unable to determine what Mr. Williams said or did not say about videoing the Side Splits Stretch and sharing (or not sharing) the videos, or posting (or not posting) them, on social media based on the limited and conflicting information available to them on this issue.

Similarly, there was an allegation Mr. Williams required the students to do the Side Splits Stretch. Mr. Williams indicated that he did not require anyone to do it, but instead told the students it was optional. Again, the emails and the witness statements on this point conflict: some said it was not optional; some said it was; and some said although Mr. Williams described it as optional, the peer pressure and fear of Mr. Williams’s reaction if they did not do the drill made it feel mandatory. In sum, the investigators were not able to determine if the Side Splits Stretch was mandatory or optional. We are inclined to accept as credible each student’s perception about whether the drill was mandatory or optional as that is how each student perceived the circumstances. In other words, it would appear that at least some students

perceived their participation in the Side Splits Stretch to be mandatory, regardless of what Mr. Williams said or did not say.

F. The Events of June 13–16

The events described below are from emails, phone records, and witness interviews, although the investigators did not meet with Parents 5 and 6, despite requests that they meet with the investigators.

1. Parent 5’s Meeting Regarding Concerns on Tuesday, June 13¹¹

On Tuesday, June 13, Parent 5, Parent 5’s daughter, Ms. Porter and Mr. Williams met, although the time of the meeting is unknown. According to Ms. Porter, the reason for the meeting was that Parent 5 and Parent 5’s daughter had concerns with Mr. Williams’s coaching. Nothing they raised related to the Side Splits Stretch. The meeting commenced with all four of them present, but then Mr. Williams was excused from the meeting because of a concern by Parent 5 and Parent 5’s daughter about being able to express their candid thoughts in front of him. According to Ms. Porter’s handwritten notes from the meeting, one concern that was expressed was that it felt like Mr. Williams brought the students down instead of building them up. There was also concern about the amount of time that was required, and that it was wearing Parent 5’s daughter out.

After the meeting, Parent 5 sent Ms. Porter and Mr. Williams an email, stating in part, *“Thank you both for meeting with [my daughter] and I today. You both really listened to her, and I appreciate it so much. She will be at practice each day this week, and will make her decision [whether to stay on the team] by Friday.”* Ms. Porter responded in part, *“Thanks for the conversation and feedback. I am optimistic.”*

2. Parent 6’s Request for a Meeting Made on Wednesday, June 14

On Wednesday, June 14, Parent 6 sent an email to Ms. Porter at 10:08 a.m. asking her to set up a parent meeting as soon as possible so that Parents 6 could *“come in and speak with you regarding some cheerleading team concerns. Do you have any availability tomorrow when the team is not in practice?”* Parent 6 also called Ms. Porter at 2:04 p.m. and appears to have left a 48-second voicemail.

3. Parent 6’s Concerns on Thursday, June 15 Before Sending the 8 Cheer Videos

On Thursday, June 15, at 10:15 a.m., Ms. Porter sent Mr. Williams and Ms. Cladis the cheerleading coach rubric (discussed above), and explained that she wanted to reiterate her expectations about their approach with the Team. Ms. Porter also said during the interview that

¹¹In addition, as described above, on June 13, Parents 1 met with Ms. Porter and Mr. Williams about their concerns.

she spoke with Mr. Williams about Parent 6's concerns, including regarding volunteer/fundraising opportunities.

In response to Parent 6's email received on June 14, Ms. Porter emailed Parent 6 at 10:35 a.m. on June 15, and stated in part, *"Thank you for your e-mail. I have talked with Ozell and my understanding is you all have connected and cleared things up. Thank you for supporting East Cheer. Please let me know if there is anything else."*

Ms. Cunningham, Ms. Porter's clerical assistant, indicated that at some point soon thereafter, Parent 6 called Ms. Cunningham and was very upset, mentioned a video, and said Parent 6 had been trying to contact Ms. Porter and could not reach her. Ms. Cunningham said Parent 6 made some reference to Parent 6's spouse being very upset.

Ms. Cunningham interrupted Parent 6 because of how concerned Parent 6 appeared to be, and said she would locate Ms. Porter and ask Ms. Porter to call Parent 6. Ms. Porter subsequently called Parent 6 at 11:23 a.m., and the call lasted for 15 minutes. Ms. Porter said she had no recollection of the content of this call with Parent 6. As indicated above, Parent 6 did not participate in the investigation.

4. Parent 6 Sends a Letter and the 8 Cheer Videos on Thursday, June 15

On June 15, at approximately 3:00 p.m. and approximately 3.5 hours after the call between Parent 6 and Ms. Porter, Parent 6 sent a series of emails to Mr. Mendelsberg, Ms. Porter, Ms. Cunningham, Ms. Smith, and the other six Assistant Principals.

The subject line of the emails was "Cheerleading Forced Splits," or some variation on that phrase, depending on the particular email.

Parent 6 wrote a cover message that was set forth in the email to some of the individuals, but was attached as a separate attachment in the emails to other individuals. The cover message (whether contained in the body of the email or as an attachment) will be referred to herein as "Parent 6's Letter."

Parent 6's Letter said in part:

I have attached a video of the forced splits she [referring to Parent 6's daughter] and her other team members were forced to do at cheerleading camp and practices, unless they had a doctor's note. This is how [my daughter] injured her leg.

Parent 6 went on to indicate that Parent 6's daughter's doctor indicated that the Side Splits Stretch was "negligent at best" and "[t]o force splits in this way can tear muscles and ligaments, pull hamstrings, and even fracture pelvic bones."

Parent 6 indicated Parent 6's daughter had shown Parent 6 the video of the daughter doing the Side Splits Stretch and "five others of different teammates" (although Parent 6 ultimately sent a total of 8 videos). Parent 6 wrote:

I couldn't stop crying after witnessing the pain and abuse they were suffering. [Parent 6's daughter] didn't want to send me the videos when I asked her for them. She said she was scared cuz the coach warned the girls never to share those videos outside of the team in that room. The fact that he warned the kids against sharing these videos w/anyone almost bothers me more than the forced split technique.

Parent 6 concluded with, “[we] would like to know what the administration is going to do about my daughter’s injury and how it happened; besides force us to have a meeting w[ith] my daughter’s abuser?”

Parent 6 then forwarded the 8 Cheer Videos and Parent 6’s Letter to various individuals as set out below, but not everyone was sent all 8 Cheer Videos—some were only sent the video of Parent 6’s daughter (Video #1).

Ms. Smith appears not to have been sent the Letter, either in the cover email or as an attachment. Mr. Maclin was not sent the Letter or any video because his name was spelled incorrectly.

Parent 6’s Letter was sent in the body of the email to Ms. Porter, Ms. Cunningham, and Ms. Berry (after it was forwarded by Ms. Porter).

Parent 6’s Letter was sent as an attachment (as an HTM or TXT file) to Mr. Mendelsberg, Ms. Porter, Ms. Chopin, Mr. Glover, Mr. Grover, Mr. Najmulski, and Ms. Peterson. Parent 6 addressed versions of Parent 6’s Letter to certain individuals, including one to “Dear Andy.”

Video #1 was sent to Mr. Mendelsberg, Ms. Porter, Ms. Cunningham, Ms. Berry, and the other Assistant Principals (except for Mr. Maclin).

Videos # 2-8 were sent or forwarded to Mr. Mendelsberg, Ms. Porter, and Ms. Cunningham.

Videos # 2-6 were sent or forwarded to Ms. Berry.

Videos # 4-8 were sent to Ms. Smith, although she indicated that she only saw Video #1 during the June 15-16 timeframe.

5. Mr. Mendelsberg, Ms. Porter, and Ms. Berry’s Response on June 15

How the Assistant Principals who received the video (other than Ms. Porter and Ms. Berry), as well as how Ms. Smith and Ms. Cunningham, responded to the Letter and the videos is discussed below. This subsection addresses what Mr. Mendelsberg, Ms. Porter, and Ms. Berry did in response to Parent 6’s Letter and the 8 Cheer Videos.

When Mr. Mendelsberg got the first email with Video #1, he forwarded it to Ms. Porter at 3:10 p.m. and said, “what is this,” which he explained he asked because he is not an expert in cheerleading. He read Parent 6’s Letter and opened Video #1 on his phone but it was grainy.

Ms. Porter also read Parent 6's Letter. Ms. Porter also watched some but not all of Video #1, because it was too difficult to watch.

Due to Ms. Berry's experience as a former East cheer coach and former professional cheerleader, both Mr. Mendelsberg and Ms. Porter reached out to Ms. Berry. Although Ms. Berry was forwarded multiple copies of all of the videos, due to problems opening them, she only reviewed Parent 6's Letter and watched Video #1. Ms. Berry thought the other videos that were sent were copies of Video #1, and did not realize until the media story in late August that the videos were distinct.

Ms. Berry advised Mr. Mendelsberg and Ms. Porter that she was aware of the use of the Side Splits Stretch in the cheer and gymnastics community, but she also said that the Side Splits Stretch is not a drill she has used or would use with students. She explained to the investigators that through the Colorado High School Activities Association ("CHSAA"), there is a class on how to teach students to appropriately stretch, condition and learn the splits, among other things.

Mr. Mendelsberg was "*definitely concerned*" when he saw Student 1's video and wanted to know "*why are we doing this?*" He said he had never seen this before. Ms. Porter's response was that it was "*awful*" – she characterized it as "*torture.*" Ms. Berry's response to Mr. Mendelsberg and Ms. Porter was "*this is bad.*"

Mr. Mendelsberg called Parent 6 at 3:18 p.m. and they spoke for 29 minutes, and he called Parent 6 a second time at 6:03 p.m., and they spoke for 20 minutes. He told Parent 6 he was concerned and wanted to meet right away. Mr. Mendelsberg arranged for a meeting the next day, Friday, June 16, at 10 a.m., with Parents 6, Mr. Mendelsberg, Ms. Porter, Ms. Berry, Mr. Williams, Ms. Cladis and Mr. Watson.

The only other preparation that Mr. Mendelsberg did for the June 16 meeting with Parents 6 is that he did approximately 15 minutes of internet research regarding the practice, and determined that some endorsed the Side Splits Stretch and some did not.

6. The Response of the Other Assistant Principals, Ms. Smith and Ms. Cunningham on June 15-16

Assistant Principal Peterson was on leave and did not receive or review Parent 6's Letter or Video #1. She did not become aware of the Parent 6's Letter or any of the videos until the media story occurred at the end of August.

Assistant Principals Chopin, Glover, Grover, Maclin, and Najmulski all reviewed Video #1 on either June 15 or 16, but none of them reviewed Parent 6's Letter. Their statements that they did not review the Letter are credible to the investigators because of the way in which the Letter was sent to them as an HTM or TXT attachment, which appeared to be a non-substantive attachment to an email; it was not attached as a .pdf or a .doc file. (Mr. Maclin did not receive the emails from Parent 6 because his name was misspelled in the email address, but one of the other Assistant Principals showed him Video #1.)

The Assistant Principals (other than Ms. Porter and Ms. Berry), Ms. Smith and Ms. Cunningham all indicated that they reached out to either Mr. Mendelsberg or Ms. Porter (or they heard from another Assistant Principal who had spoken with Mr. Mendelsberg or Ms. Porter), and although the details are not all the same, they all essentially stated they were advised there was going to be a meeting with the family, and the matter was being addressed.

When they returned to school at the end of July, some, if not all, of them indicated that Mr. Mendelsberg told them the issue had been addressed.

Ms. Smith said she did not receive Parent 6's Letter, but when she received numerous videos, she only watched Video #1, and thought the rest were the same. Although the investigators found only emails copying Ms. Smith on Videos #4-8, Ms. Smith indicated she received and only watched Video #1.

Ms. Smith said she texted Ms. Porter, who responded that she had a meeting set up to address the matter. Ms. Smith was later contacted by Ms. Porter to follow up with Parent 6 and Parent 6's daughter regarding her alleged injuries, which Ms. Smith did.

Ms. Cunningham, Ms. Porter's assistant, received the Letter and the 8 Cheer Videos. She read the Letter and watched Video #1, but not the others. She understood that her boss, Ms. Porter, was handling the matter, based on the earlier exchange regarding the call from Parent 6.

7. Mr. Mendelsberg's Meeting with Assistant Superintendent Sean Precious on June 16

Before the meeting with Parents 6, Mr. Mendelsberg had a 10-15 minute in-person meeting with his supervisor, Assistant Superintendent Sean Precious. Mr. Precious dropped off a book that he wanted Mr. Mendelsberg to read.

During the course of their brief meeting, which involved various topics, the subject of the impending meeting with Parents 6 was discussed.

Mr. Mendelsberg told the investigators "*I told [Mr. Precious] I was having a meeting with a family. There is a cheerleading issue around forced splits and communication issues with the coach. I think I can handle the meeting.*" Mr. Mendelsberg said that Mr. Precious said, "*let me know if you need me.*"

Mr. Precious said Mr. Mendelsberg told him the family of a Cheer Team student was coming in to discuss concerns they had about practice. He said Mr. Mendelsberg made no reference to what Mr. Precious now has heard described as the "forced splits." Mr. Precious described Mr. Mendelsberg as seeming "*irritated*" with the parents coming in that day to address Cheer concerns.

In response to whether Mr. Mendelsberg told Mr. Precious about the videos Mr. Mendelsberg received, he said, "*I think I did but I don't know for sure.*" Mr. Precious indicated that he did not believe Mr. Mendelsberg mentioned the videos.

Mr. Precious described Mr. Mendelsberg's attitude as typical of his nature and approach to issues that demonstrates an "I got this" attitude. Mr. Precious said he asked Mr. Mendelsberg "*what do you need from me,*" and Mr. Mendelsberg said, "*we're good.*" Mr. Precious also said that Mr. Mendelsberg said something like, "*We've documented everything and we have unprofessional voicemail messages from this family.*"

Mr. Mendelsberg did not share Parent 6's Letter or the 8 Cheer Videos with Mr. Precious, and did not follow up with Mr. Precious after the meeting with Parents 6.

8. The Meeting with Parents 6 on June 16

On Friday, June 16, before the meeting with Parents 6, Ms. Porter texted Mr. Williams, "*Don't forget about our meeting in Andy's office at 10am this morning*" and "*Please no forced splits today.*"

Mr. Mendelsberg reviewed at least five of the other seven videos before the meeting with Parents 6. He did not inquire as to whether anyone else involved in the meeting had watched some or all of the videos. Ms. Porter watched Video #1 but had to stop. Ms. Porter indicated that she could not watch the other seven videos because the content was too difficult to watch. Instead, she looked at the freeze frames to see who was in the other seven videos. Ms. Cladis indicated that someone showed her Video #1 before or at the beginning of the meeting.

Regarding the 10 a.m. meeting, it was attended by Parents 6, Mr. Mendelsberg, Ms. Porter, Ms. Berry, Mr. Williams, Ms. Cladis, and Mr. Watson.

Mr. Mendelsberg said neither of the parents expressed the tone of anger that had been reflected in Parent 6's Letter. Ms. Porter indicated the same. Ms. Berry, who arrived late to the meeting due to another commitment, indicated it was tense when she arrived but the mood seemed to lighten by the end.

The meeting lasted more than an hour, and the Side Splits Stretch was discussed, as was the injury to Parents 6's daughter, which they indicated was due to the Side Splits Stretch. They also discussed other concerns they had regarding the Cheer Team and Mr. Williams, including fundraising and communication issues.

Mr. Mendelsberg and Ms. Porter both indicated that it was conveyed during the meeting there would be "*no more forced splits.*" This statement is indicated in Ms. Porter's handwritten notes, but not in her typed email summary, described below. Ms. Cladis said she left the meeting with the impression that there would be no more Side Splits Stretch incidents, but does not recall it being stated as expressly as Mr. Mendelsberg and Ms. Porter stated in their interviews. Mr. Williams indicated that it was not stated during the meeting, but also that he had no intention of doing it again as it is a stretch done once at the beginning of the season. Several students reported that Mr. Williams told them at some point after the Camp week that they would not do the Side Splits Stretch again, which some indicated coincided with a meeting he had. No witness said the Side Splits Stretch occurred after the June 16 meeting. Based on the interviews and

notes of the meeting, the investigators believe it was conveyed in some manner during the meeting that the Side Splits Stretch should not be used again.

There were four action items discussed at the end of the meeting, according to Mr. Mendelsberg and Ms. Porter, which were reflected in Ms. Porter's handwritten notes and email summary: (1) Mr. Williams would have a parent meeting on June 19 *"to help with communication and transparency"*; (2) Mr. Williams would host open practices that parents could attend; (3) Mr. Williams would work on improving communications; and (4) Ms. Smith would work with Mr. Williams, students, and families *"to ensure that all students return to activity only when ready."*

After Parents 6 left the June 16 meeting, there was no post-meeting discussion with Mr. Williams, Ms. Cladis or Mr. Watson. Everyone left, except Ms. Porter and Mr. Mendelsberg who chatted briefly.

9. The Email from Parent 5 with More Concerns Sent on June 16

After the meeting with Parents 6, Ms. Porter forwarded to Mr. Mendelsberg an email that she received at 9:53 a.m. on June 16 from Parent 5. Ms. Porter wrote in her forwarding email, *"How do I respond to this?"*

Parent 5's email began with, *"As you know, [my daughter] has decided to quit the Cheer team."* She then explained the reason for this was allegedly because *"The environment that Ozell has created is absolutely toxic."*

Parent 5 claimed that on Thursday, June 15:

"[My daughter] told him [Mr. Williams] that her foot/ankle were hurting. He told her to 'toughen up.' The girls did one leg hops the length of the court for conditioning. [My daughter] tried to do both on her 'good' foot, hoping that he wouldn't notice. He noticed and made her hop on the foot that she had told him was bothering her. We had disclosed [a prior injury]. . . Now... she is in a great deal of pain, and will likely be in her walking boot for a few weeks. This could have, and should have, been avoided. Athletes know their bodies, and know when they are injured. Why can't he respect that? He demands respect from parents, yet he shows none to our girls.

Parent 5's email ended with a reference to the *"videos of him torturing the girls while trying to 'help' them do the splits . . . that is absolute, blatant abuse. No one I know who has watched those videos has not been deeply troubled by them."* Parent 5 references Mr. Williams allegedly *"shov[ing] his knee in their lower back, while they scream in pain"* and Parent 5 ends the email with a discussion of the crying and "please stop" statements in the video: *"No means NO. Stop means Stop. Fast forward a few years to when the girls are in compromising positions with men. Does 'Please stop' mean, finish what you are doing, then stop? That is not the message these girls should be subject to."*

In response to Parent 5's email, Mr. Mendelsberg initially thought that Ms. Porter called Parent 5, and Mr. Mendelsberg had no recollection of calling Parent 5. However, after advising him that Ms. Porter said he made the call and checking phone records, it was discovered that Mr. Mendelsberg called Parent 5 at 12:02 p.m. and they spoke for 32 minutes. Mr. Mendelsberg had no recollection of the content of his call with Parent 5. He did not take any notes during the call. He does not remember any follow up to Parent 5's email other than his call to Parent 5, which he assumes related to Parent 5's email.

There is no memorialization of any follow up after Mr. Mendelsberg's call to Parent 5 regarding the alleged re-injury of Parent 5's daughter or Parent 5's concern with the videos. Parent 5 and Parent 5's daughter were not referred to Ms. Smith, the Athletic Trainer. Mr. Williams indicated Ms. Porter asked him about Parent 5's daughter's foot injury without confronting him with Parent 5's accusation. Ms. Porter also spoke briefly with Ms. Cladis about this injury, according to Mr. Williams.

10. Mr. Mendelsberg's Follow-Up Call to Parent 6 at 12:38 p.m. on June 16

On Friday, June 16, after calling Parent 5, Mr. Mendelsberg called Parent 6 at 12:38 p.m., and the call lasted for 24 minutes. According to Mr. Mendelsberg, he told Parent 6 that he felt like the meeting was a positive conversation and asked Parent 6 if that is how Parent 6 felt. Parent 6 said "yes," according to Mr. Mendelsberg. Mr. Mendelsberg stated Parent 6 "*felt that Coach Ozell answered the questions well,*" Parent 6 thought he was a great coach, and Parent 6 hoped he would follow through. He asked Parent 6 if there was anything he missed. He said Parent 6 was very upbeat and positive, and was moving forward. Mr. Mendelsberg does not remember anything in the call that was negative. Mr. Mendelsberg gave Parent 6 his cell phone number so that Parent 6 could call him if there were other issues.

11. Mr. Mendelsberg's Call to Lead Human Resources Business Partner Sandra Stanfield at 3:54 p.m. on June 16

After the call to Parent 6, Mr. Mendelsberg believes he left East for a personal appointment. Later that afternoon, he made a call from his cell phone to Sandra Stanfield, Lead Human Resources Business Partner for DPS, on her cell phone at 3:54 p.m. and they spoke for 13 minutes.

Mr. Mendelsberg indicated that he did not recall anything about the content of the conversation with Ms. Stanfield. Ms. Stanfield, by contrast, indicated Mr. Mendelsberg advised her about a concern with a coach and a family that complained about the coach. She indicated that Mr. Mendelsberg mentioned videos, prompting Ms. Stanfield to ask him if he had any videos. Mr. Mendelsberg said he did not. When confronted with this statement, Mr. Mendelsberg said he does not recall this call or responding to her question, but it did not make sense he would tell her that.

Since Mr. Mendelsberg did not recall the conversation, and Ms. Stanfield was credible, the investigators find credible Ms. Stanfield's description of the call. In addition, according to

Ms. Stanfield's description of the call, there are several key facts that Mr. Mendelsberg did not describe or share with Ms. Stanfield, including Parent 6's Letter, and the 8 Cheer Videos.

12. Mr. Mendelsberg's Call to Deputy General Counsel Michael Hickman at 4:23 p.m. on June 16

Mr. Mendelsberg called Mr. Hickman at 4:23 p.m. on June 16, and they had a 19-minute conversation.¹² Mr. Mendelsberg said he called Mr. Hickman from Mr. Mendelsberg's home using his cell phone, and Mr. Hickman was at his District office.

During their interviews, Mr. Mendelsberg and Mr. Hickman described the call differently.

Mr. Mendelsberg said he called Mr. Hickman because he had encountered a unique situation and he did not want to miss anything. He could not remember exactly what was said in the call and he did not remember any particular advice that Mr. Hickman gave him. Mr. Mendelsberg claims he mentioned a student, the meeting with the family, and his concern about a video possibly going viral. Mr. Mendelsberg said in part:

To this minute, it is still the most unique situation I've handled in 19 years of being an administrator. Most of the situation we could control but there was an outside issue we couldn't control – the videos.

He said Ms. Porter would send Mr. Hickman a summary of the meeting with the family on June 16, "*and we would move on from there.*"

By contrast, Mr. Hickman said that Mr. Mendelsberg told him that a student had been injured during cheer practice because a coach was pushing on the student while she was doing the splits. Upon hearing that the injury may have been caused by the coach, Mr. Hickman also indicated to Mr. Mendelsberg, "*You should probably let the coach go.*" Mr. Hickman said that Mr. Mendelsberg stated he did not want to do that because the issue had been resolved with the family.

Mr. Hickman also said he told Mr. Mendelsberg to file a report with the District's Risk Management because it would serve as a placeholder if the injured student or her parents subsequently made a claim. Mr. Hickman also asserts that a video was mentioned and he claims that he asked Mr. Mendelsberg about the video, and Mr. Mendelsberg indicated he did not have it.

In response to Mr. Hickman's description of their call, Mr. Mendelsberg said that he does not think he told Mr. Hickman the student had been injured by the coach. Mr. Mendelsberg claims Mr. Hickman did not ask him about the videos. Mr. Mendelsberg asserts there was no mention of an injury report or suggestion that he let the coach go.

¹²DPS has authorized DGS to set forth the details of this call and a subsequent email exchange involving Mr. Hickman. This is not a waiver of any attorney-client or work product privileges, or other privileges that otherwise apply.

Mr. Hickman's description of the conversation makes sense, appears credible, and is corroborated by other evidence. There may have been a misunderstanding between Mr. Mendelsberg and Ms. Stanfield, and Mr. Mendelsberg and Mr. Hickman, in each of their respective calls regarding what was said about whether Mr. Mendelsberg possessed any video.

However, it is not disputed that Mr. Mendelsberg did not send Mr. Hickman (or Ms. Stanfield) Parent 6's Letter and the 8 Cheer Videos. Mr. Mendelsberg also did not send Mr. Hickman (or Ms. Stanfield) Parent 5's email or share the content of the conversation he had had with Parent 5 after receiving Parent 5's email. Mr. Mendelsberg also stated that he never followed up with either Ms. Stanfield or Mr. Hickman, even after additional concerns were brought to his attention, as described below.

13. Mr. Mendelsberg's Calls to Mr. Porter at 4:15 p.m. and 4:25 p.m. on June 16

After the calls with Ms. Stanfield and Mr. Hickman, Mr. Mendelsberg made two short calls to Ms. Porter: one at 4:15 p.m. for 5 minutes and one at 4:52 p.m. Both Mr. Mendelsberg and Ms. Porter describe that the calls were to discuss Mr. Mendelsberg's request that she prepare the written summary of the June 16 meeting with Parents 6 and send it to Ms. Stanfield and Mr. Hickman.

14. Ms. Porter's Written Summary of the June 16 Meeting Sent to Mr. Hickman and Ms. Stanfield on June 17

At 5:45 p.m. on June 16, Ms. Porter sent a draft email of the June 16 meeting summary to Mr. Mendelsberg for his review. She sent a follow-up question to Mr. Mendelsberg shortly thereafter. Ms. Porter also sent the draft to Ms. Berry and sought her input. Ms. Porter and Ms. Berry had a brief call on Saturday, June 17.

Ms. Porter sent a revised draft summary email of the June 16 meeting to Mr. Mendelsberg the evening of June 17, which he approved, and she then sent the summary to Mr. Hickman and Ms. Stanfield at 11:39 p.m.

The summary email lists who was in attendance, and then has four paragraphs summarizing the meeting. The first paragraph refers to Mr. Mendelsberg framing the conversation:

Andy framed the conversation, reminding everyone that East's goal is to provide a Cheer Program where all kids are safe to participate, challenged, have fun and are held to high expectations. Andy reiterated that East does not believe that Coach Ozell would intentionally try to hurt kids.

The second paragraph is Ms. Porter's summary of statements by Parent 6, including that Parent 6 "expressed [Parent 6's concern] regarding the split stretch drill, the video, the conversation Parent 6 had with their pediatrician and the research Parent 6 did on line about the split stretch drill." The summary states that "[Parent 6] agreed that there are people who support the split stretch drill and others who raise concerns related to the split stretch drill." The summary

indicates Parent 6 expressed “*the feeling that Coach Ozell gets defensive*” and also Parent 6’s “*frustrations around fundraising.*”

The third paragraph describes what Mr. Williams said about the communication and fundraising issues. The paragraph further states: “*Coach Ozell acknowledged that the video, out of context, was not good. He explained that it did not show all the pre-work, demonstration and conversation around levels of stretching. He acknowledged that he is a 1st year coach and has a lot to learn.*”

Although the summary references a video, it does not describe the 8 Cheer Videos or their graphic nature. Nor does it describe Parent 6’s Letter that was sent in advance of the meeting, or the allegation regarding the daughter’s “*abuser.*”

The fourth paragraph is a summary of additional comments by Parents 6, including that “[*t*]hey expressed that their daughter loves cheer and Coach Ozell. They want the program and Coach Ozell to succeed. . . . They want to make sure their daughter is in a safe environment and has a good experience.”

The summary then listed the four next steps:

- (1) Coach Ozell Williams will hold a parent meeting on Monday, June 19th to help with the communication and transparency with parents and student-athletes.*
- (2) Coach Ozell Williams will host practices where parents can come and see what they are doing and how the girls are progressing.*
- (3) Coach Ozell Williams will work on improving communications to parents related to activities, fundraising, events, practices, etc.*
- (4) Lisa Smith, our Head Trainer, will work with Coach Ozell, students, and families to ensure that all students return to activity only when ready.*

The summary concluded with “*Please let me know if you need additional information related to the meeting.*”

On the morning of Sunday, June 18, Mr. Hickman responded via email to Ms. Porter, copied to Mr. Mendelsberg and Ms. Stanfield, as follows: “*I think the outcomes outlined after the meeting will help ameliorate the situation. Let’s wait and see.*”

Mr. Mendelsberg did not receive any response from Ms. Stanfield to the email, and he did not talk to her or Mr. Hickman thereafter about this matter. In response to whether Mr. Mendelsberg shared the additional concerns with either Ms. Stanfield or Mr. Hickman that were brought to Mr. Mendelsberg’s attention later in June and in July from Parent 3 and Parent 6, he said, “*no - we were monitoring the situation.*”

Mr. Mendelsberg indicated nothing was sent in writing to Parents 6 as a follow-up to the meeting, and he did not think about sending them a copy of the summary.

15. Follow Up Actions Regarding Parent 5's and Parent 6's June 15-16 Concerns

In response to questions about follow-up actions to Parent 6's June 15 Letter and the 8 Cheer Videos, Parent 6's daughter's injury, Parent 5's June 16 email, and Parent 5's daughter's re-injury, Mr. Mendelsberg and Ms. Porter described the meeting with Parents 6, the telephone calls to Parents 5 and 6, the calls to Mr. Hickman and Ms. Stanfield and the follow-up written meeting summary to them, and Ms. Porter's referral of Parent 6 and Parent 6's daughter to Ms. Smith.

Neither Mr. Mendelsberg, nor Ms. Porter, sought to interview the students, or to ensure that all of the Cheer Team parents had been notified about the existence of the videos. They did not ensure that incident reports were filed with respect to either of the alleged injuries—either internally at East or with the District. They did not inquire whether other students had been injured during the Cheer Camp or inquire whether other parents had similar concerns as those that had been raised by Parents 5 and 6. Nor did Mr. Mendelsberg or Ms. Porter take any disciplinary action with regard to Mr. Williams, or instruct him in writing with respect to no more Side Splits Stretch, or to reinforce the expectation of safety first with the students.

G. June 28 – 30 Events

1. June 28 Call from Parent 6's Spouse to Mr. Mendelsberg

Mr. Mendelsberg's cell records reflect a 48-minute call on June 28 at 9:33 p.m. from Parent 6's spouse. Mr. Mendelsberg indicated that Parent 6's spouse called about medical bills related to their daughter's injuries. Mr. Mendelsberg discussed that Parent 6's spouse was "*getting sick of all the rumor stuff with [Parent 6 and their daughter].*" Mr. Mendelsberg said there were no red flags in the call that would prompt the need for immediate action, and he told Parent 6's spouse he would get back to Parent 6's spouse when Ms. Porter was back from summer break regarding the medical bill. Parent 6's spouse did not participate in an interview.

2. June 29 Email from Ms. Porter to Mr. Williams

After speaking with Mr. Mendelsberg from a conference in Houston, Ms. Porter sent an email to Mr. Williams on June 29 instructing him with regard to four items as follows:

Do not collect ANY money for anything related to East Cheer . . .

Nothing can be mandatory. . . .

Do not require make-up. . . .

East Cheer needs to be COMPLETELY separate from Mile High Tumblers. . . .

3. Parent 5's June 29 Email to Mr. Mendelsberg

On June 29, Mr. Mendelsberg received a lengthy email from Parent 3. Parent 3 forwarded the 3-1/2 page letter Parent 3 had sent to Ms. Porter on June 5, and included a 1-1/4 page cover email. Parent 3 indicated that Ms. Porter had been prompt in replying to Parent 3's June 5 letter.

However, Parent 3 said that on approximately June 14, "*Mr. Williams singled out my daughter during practice and proceeded to demand she recite cheers in front of everyone.*" Parent 3 said "*Mr. Williams began to shame my daughter in front of the whole squad*" and Parent 3's daughter was humiliated. Mr. Williams acknowledged that he told this student to "call out" certain cheers, but asserted that it was not done in a demeaning way.

Parent 3 said that after reaching out to Ms. Porter about this matter, Ms. Porter suggested that Parent 3 reach out directly to the coach. Parent 3 indicated that depending on how the meeting went, Parent 3's daughter would decide whether to continue with Cheer. Parent 3 alleged that Mr. Williams's "*instinct is to harass, bully, and intimidate students. It is impractical to monitor every situation to ensure that doesn't happen again. . . . I felt it was important to make you aware of this situation so other students don't suffer the same treatment.*"

Mr. Mendelsberg's only response to Parent 3's email was to send an email the same day:

Thank you for your email! We will continue to monitor this situation closely. Please let me know how tomorrow's meeting goes!

Mr. Mendelsberg did not forward the email to Ms. Porter. He also did not follow up with Parent 3 to see how the meeting went, but instead indicated he had asked her to let him know how the meeting went. When he did not hear from her, he assumed her concerns were resolved. He also did not follow up on any of the specific items list in the attached letter from Parent 3 to ensure that all of the issues in the letter had been addressed.

Although Mr. Mendelsberg indicated that he and Ms. Porter monitored the situation when they returned the week of July 24, he was not able to provide any specific action items that were taken, including with respect to Parent 3's concern about other students "*suffer[ing] the same treatment.*"

4. Parent 6's June 30 Email to Mr. Mendelsberg

Mr. Mendelsberg received an email from Parent 6 on June 30. It was approximately 4-1/2 pages long, with 6 pages of attachments. The email contained the following headings in bold within the text of the email: **FEES, Fundraising, Observations**, and concluded with the following in bold:

****All of the concerns, questions and issues I brought to the coach first. HE FAILED TO RESPOND, even after repeated attempts to broach those concerns with him.***

The email detailed various concerns, including but not limited to, bills thus far related to Parent 6's daughter's "injury . . . caused by the force of her coaches knee pressing against her back upper thigh while holding her leg down during his forced splits technique"; allegations of financial impropriety and dishonesty on the part of Mr. Williams; and an allegation that on June 29, Mr. Williams asked Parent 6's daughter "to run a couple miles at practice with the team yesterday; even though she has a doctor's note stating that she is to [d]o no cheer activities until her leg injury is cleared by a doctor."

The email further alleged that "three more girls have received the same or similar injuries due to the same negligent forced splits activity."

Mr. Mendelsberg's only response to this email was an email he sent on July 1:

Thank you [Parent 6] . . .we will continue to monitor the situation when we return from break. Lisa [Porter] has sent coach an email in regard to no collection of money and no mandatory practices in July.

In his interview, Mr. Mendelsberg said he did not see new concerns in Parent 6's June 30 email, and there was nothing involving the Cheer Team in July that was mandatory. Mr. Mendelsberg did not forward the June 30 email to Ms. Porter and did not do any follow up with respect to Parent 6's claim that on June 29, Mr. Williams had made Parent 6's daughter run "a couple miles" despite her doctor's note. He also did not do any follow up with respect to the allegations relating to Mr. Williams allegedly being dishonest about his background.

H. Spider Monkey Cheer Team Outing on July 14-15

On July 14-15, there was a Cheer Team outing at Spider Monkey (an indoor trampoline and tumbling facility). It was called a "lock-in" because the students would arrive in the late evening and stay all night. Ms. Porter and Mr. Mendelsberg were aware of this planned outing.

On July 17, at 10:48 a.m., Parent 6 emailed Mr. Mendelsberg raising some concerns about the event, including that there were possible "hook ups" at the event between East students and young adult men, the facility smelled like marijuana, and when Parent 6's daughter woke up, male staff were taking pictures of her and another student.

Mr. Mendelsberg responded at 11:21 as follows:

Thank you for the update [Parent 6]...Lisa [Porter] was aware of the Friday group event. We will look into all issues when we return next week (unfortunately, our 1st week back is full of district meetings).

In response, Mr. Mendelsberg asked Mr. Williams about the allegations approximately two weeks later after Mr. Mendelsberg returned to work. Mr. Williams denied the allegations (and he still denies them). Mr. Mendelsberg did not forward the email to Ms. Porter, but Ms. Porter became generally aware of the allegations when she returned on or after July 24. Ms. Porter

asked another cheer parent (who is also her good friend) about the allegations, and that parent told Ms. Porter that the event had been positive and the parent was unaware of any concerns.

Ms. Cladis also indicated that she did not witness any of the issues alleged by Parent 6. Some of the students indicated that Mr. Williams was very protective of them at the outing, making them check in with him every half hour. Certain witnesses, including Mr. Williams, indicated that some parents were present. No East employee interviewed any student present about this outing.

I. July 24 Return to East and Call from Mr. Mendelsberg and Ms. Porter to Parent 6¹³

When Mr. Mendelsberg returned to the building on Monday, July 24, he and Ms. Porter called Parent 6 to show her how to access the form on the District's website to seek reimbursement for Parent 6's daughter's medical bills.

Mr. Mendelsberg also indicated that when he returned to school, he had a meeting with the Assistant Principals, and as part of the discussion, he said in reference to the Letter and 8 Cheer Videos received on June 15, "*we pushed it to HR and Legal.*" But the 8 Cheer Videos and Parent 6's Letter and Parent 5's email had not been provided by him to HR or Legal.

J. August 1-3 emails between Ms. Porter and Parent 6

On August 1, Parent 6 raised a concern via email with Ms. Porter about whether practices were mandatory or optional. (Per a CHSAA rule, they cannot be mandatory until August 14.) Parent 6 mentioned that Parent 6's daughter's injury had not improved so she was not going to the practices, but that Mr. Williams had said if she did not attend practices, she might be kicked off the team.

On August 2, Parent 6 alleged that Mr. Williams had intentionally erased a post regarding the mandatory practices, and said, "*Oh well, I guess I just add it to my already long list of transgressions.*"

Ms. Porter and Parent 6 exchanged emails, and Ms. Porter assured Parent 6 that the practices were not mandatory. Ms. Porter also followed up on June 3 after the mandatory meeting she had with coaches, including a separate meeting with the cheer coaches, and advised Parent 6 in an email on August 3 as follows:

I believe we had a productive meeting last night and I hope we can all presume positive going forward.

¹³Mr. Mendelsberg and the Assistant Principals were on summer vacation from the end of June until July 24. Nevertheless, during this time Mr. Mendelsberg and Ms. Porter stated that they continued to monitor their work emails.

K. August 14 Call from Parent 6's Spouse

On August 14, Mr. Mendelsberg received a 21-minute call from Parent 6's spouse. He described the call as similar to the call he had on June 28 with Parent 6's spouse. He said Parent 6's spouse was trying to dispel rumors at home that Mr. Williams had just walked over a student who had passed out during practice. Mr. Mendelsberg was aware and stated he had observed the situation, and he assured Parent 6's spouse that Mr. Williams and Ms. Smith were properly caring for the student.

L. August 16 Interaction Between Parent 7 and Mr. Williams

On August 16, Parent 7 had an exchange with Mr. Williams during practice where Parent 7 alleged Mr. Williams had yelled at her. Parent 7 then went to Mr. Mendelsberg's office to complain. Mr. Mendelsberg, Ms. Porter, Mr. Maclin, and Ms. Berry all were involved in trying to address the situation with Parent 7, and also with Mr. Williams.

Mr. Mendelsberg said at this point, he thought that he might have to let Mr. Williams go. Ms. Porter said when she returned from break, Mr. Mendelsberg had mentioned in passing that they might need to fire Mr. Williams, but she was not sure if it was in connection with the incident with Parent 7. However, neither Mr. Mendelsberg, nor Ms. Porter, indicated that any consideration of firing Mr. Williams had anything to do with the Side Splits Stretch.

Parent 7 did not participate in an interview.

M. Parent 6's August 18 Emails Regarding Parent 6's Daughter's Resignation

On August 18, Parent 6 emailed Mr. Mendelsberg and Ms. Porter that Parent 6's daughter was resigning from the Cheer Team. The email referenced that Parent 6's daughter was "*frightened of [Mr. Williams]*" and "*sick of his bullying tactics and mentality.*" Parent 6 alleged that "*I have witnessed and heard reports of his physical, emotional, and mental abuse of our children.*" Parent 6 concluded with, "*I am extremely disappointed in this experience.*" Mr. Mendelsberg received the email and thinks he also got a text from Parent 6.

Mr. Mendelsberg did not respond to her email but thinks he may have responded by text. Mr. Mendelsberg does not save his texts. Ms. Porter emailed Parent 6 apologizing that her daughter decided not to do cheer.

In response to whether there were issues Mr. Mendelsberg felt he needed to address raised in the resignation email, he said, "*I interpreted [Parent 6] as simply restating allegations that [Parent 6] had made.*"

N. August 19 Email to Cheer Parents Regarding August 24 Meeting

On August 19, Ms. Porter sent an email to the Cheer parents/guardians indicating that she and Ms. Berry wanted to meet with them on August 24 in the evening "*so we can all work together to support the success of our Angels and the East Cheer Program.*" Mr. Mendelsberg claimed

this was a meeting in which he would obtain, through Ms. Porter and Ms. Berry, information about Mr. Williams and decide if he needed to fire him. Ms. Porter and Ms. Berry do not describe the meeting as having such a stated purpose, but instead it was to obtain feedback from parents so that they could help Mr. Williams improve. This meeting was subsequently cancelled in light of the events that week that led to this investigation and this Report.

CONCLUSION

This Report has set forth a summary of the material factual findings learned in the course of our investigation. We have separately provided to DPS complete and unredacted supporting emails and documents.

It is for the Superintendent and DPS to decide how this Report and the factual findings contained herein will be used, including with respect to any employment-related or other decisions.

Thank you for the opportunity to conduct this investigation and prepare this Report for DPS.

Sincerely,

DAVIS GRAHAM & STUBBS LLP

A handwritten signature in black ink, appearing to read "Sybil R. Kisken", with a long horizontal flourish extending to the right.

Sybil R. Kisken, Partner

EXHIBIT A

Employees and former employees/volunteers who were interviewed*

1. Terita Berry
2. Damian Brown
3. Scarlet Chopin
4. Mariah Cladis
5. Lisa Cunningham
6. Joe Glover
7. Nathan Grover
8. Michael Hickman
9. Karen Higel
10. Jason Maclin
11. Andy Mendelsberg
12. John Najmulski
13. Eno Ocansey
14. Jann Peterson
15. Lisa Porter
16. Sean Precious
17. Lisa Smith
18. Sandra Stanfield
19. Zach Watson
20. Ozell Williams

*As explained in the Report, the names of the six families who participated are not being provided.