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**HOLM WRIGHT HYDE & HAYS PLC**  
**MEMORANDUM**

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**TO:** JOSEPH QUINTANA  
**FROM:** DOMINIC L. VERSTEGEN  
**DATE:** OCTOBER 18, 2012  
**FILE:** GLENDALE ELEMENTARY SCHOOL DISTRICT  
INVESTIGATION (6929-0942)  
**SUBJECT:** **CONFIDENTIAL, ATTORNEY CLIENT PRIVILEGED:**  
REPORT REGARDING INVESTIGATION OF ISSUES RAISED  
BY ITS DEPARTMENT

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We investigated the issues raised by the IT Department relating to the actions of Kimberly Fisher. The complaints by the IT employees generally pertain to Ms. Fisher's improper conduct, as defined by District policies governing conduct and ethics.<sup>1</sup> Ms.

<sup>1</sup> See, policy G-0750 (GBEB):

.... No employee ... shall engage in conduct that violates the District's expectations for staff conduct, examples of which include but are not necessarily limited to the following:

- Physical or verbal abuse of, or threat of harm to, anyone.
- Unprofessional conduct.
- Exhibiting improper attitudes.
- Acts of insubordination.
- Acts of dishonesty.
- Use of profane or abusive language, symbols, or conduct.

See also, policy G-0650 (GBEA):

.... This responsibility requires the employee to maintain standards of exemplary conduct. ... The school employee:

- Maintains just, courteous, and proper relationships with students, parents, staff members, and others.
- Directs any criticism of other staff members or of any department of the school system toward improving the District. Such constructive

Fisher denies any wrongdoing. But as described above, the weight of the testimony and the available documents indicate that Ms. Fisher acted improperly.

## **I. Complaints**

Generally, employees from the IT Department indicated that Ms. Fisher created a hostile work environment. They claim she did this by her constant rude and demeaning comments, undermining them to others, and delaying or preventing their work. They listed several specific things to support these complaints, addressed below.

Ms. Fisher admitted that her relationship with the IT Department was not great. The first thing she said about the IT Department in our interview was that it was a “den of iniquity.” Then she said that they actively tried to discredit her, but that despite the foregoing, she still tries to “protect” them because “they still report to our department.”

### **a. The shoulder check**

The most significant complaint made by any IT employee about Ms. Fisher related to an incident in which Ms. Fisher and Katherin Murphy physically bumped into one another in a narrow hallway on August 9. Each blames the other for initiating the contact.

Ms. Fisher was helping the IT department with a project. The room where the incident happened was crowded with boxes and other materials for the project. By chance, Ms. Fisher and Ms. Murphy walked through a narrow pathway in the room at the same time. Ms. Murphy said that she veered away from Ms. Fisher and avoided eye contact. She did this because of many recent negative interactions between the two. As she passed Ms. Fisher, she says that they bumped into each other quite hard. She says that Russell Deneault (the IT Systems Coordinator) witnessed the bump and told her that Ms. Fisher initiated the contact and purposefully shoulder checked her. Mr. Deneault confirmed that this was his observation to us during our interview with him. He said that Ms. Fisher leaned into it and purposefully tried to forcefully contact Ms. Murphy.

Ms. Fisher denies this and claims that Ms. Murphy was the one that shoulder checked her. She claims that Ms. Murphy pushed her shoulder into her chest. She claims that this was an assault, and that the next time that occurs, she will go to the police.

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criticism is to be made directly to the school administrator who has the responsibility for improving the situation.

There are no other witnesses to the event beside Mr. Deneault, who Ms. Fisher claims is biased against her.

#### **b. Keys**

The most commonly mentioned complaint had to do with Ms. Fisher not giving keys to IT Department employees. They complained that Ms. Fisher delayed in getting keys to them personally, or others in the department. Ms. Fisher denies that there was any meaningful delay, and said that the only delay was the product of waiting until certain rooms were re-keyed.

Ms. Fisher is in charge of getting certain district employees keys, including everyone in the IT Department. She maintained records of who had keys, checked out extra keys, and ordered new keys as necessary. If a new key was needed, she would inform a locksmith employed by the District and he would make a new key, generally that day.

Near the end of last school year, there was a restructuring of the IT Department which resulted in several new employees being hired. These new employees needed keys to their work spaces in the main IT department, and sometimes to schools in the district where they were working on a temporary basis.

Ms. Fisher claimed in our interview that she gave out a few keys when the IT Department first requested the keys for the new employees, approximately in early June. She said that she gave out any extra keys she had on hand, but didn't make any new keys because she was waiting until a decision was made by the IT Department about what rooms would be re-keyed. This claim (that there was a delay of several months because of a decision to re-key some rooms) is not supported by any written correspondence, and was denied by the IT Department. Ms. Fisher also said in our interview that she gave out temporary keys to anyone who was waiting on a permanent key, but this is also denied by all IT Department employees. In fact, IT Department employees told us that several of them had to wait outside until someone with a key showed up on many occasions because they had no keys.

The timeline of relevant events relating to the key issue is as follows: the Director of the IT Department, Matthew Peterson, complained to Ms. Fisher's supervisor, Kevin Hegarty, the Deputy Superintendent of Business Services, about Ms. Fisher's responsiveness to their key requests on June 8.<sup>2</sup> A few weeks later, on June 27, Ms.

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<sup>2</sup> See email from Matthew Peterson to Kevin Hegarty, dated June 8, 2012, attached as Exhibit 1.

Fisher attended a meeting with Mr. Peterson to discuss the problem.<sup>3</sup> Mr. Peterson followed this up with an email dated July 5 listing the keys needed.<sup>4</sup> His assistant, Nellie Andrade, sent a follow up email on July 11 requesting a response to that email.<sup>5</sup>

Instead of getting the keys to the IT Department that they requested, though, Ms. Fisher sent an email to Mr. Peterson and Ms. Andrade requesting an audit of all the keys checked out to the IT Department.<sup>6</sup> This email was sent on July 12. It took Ms. Andrade two weeks (until July 26) to complete this task.<sup>7</sup>

Still, after the audit was done, the IT Department did not receive the keys it requested. Instead, a week and a half later, on August 6, Ms. Fisher sent an email to Mr. Peterson saying that only three IT Department employees needed keys.<sup>8</sup> In our interview, she told us that she was correcting his assertion that there were more people than that who needed keys. In her email, Ms. Fisher closed by saying, "[f]alse information may be documented and used for an IT reorganization but please use the facts when referring to me."<sup>9</sup>

Mr. Peterson waited to respond to this for a week. In the interim, on August 10, Ms. Fisher sent another apparently hostile email, as will be discussed below. Mr. Peterson emailed Ms. Fisher on August 13 complaining about her behavior and non-responsiveness to his requests for keys.<sup>10</sup> This led to a meeting taking place later that day, between Mr. Peterson, Ms. Fisher and Mr. Hegarty to discuss the keys and the other issues between Ms. Fisher and the IT Department.

During that meeting, Mr. Peterson said that Ms. Fisher was very rude and said several untruthful things. He said that she said that he was unqualified for his position, how he should do certain work that Ms. Murphy was doing, and other things that were not helpful or accurate.

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<sup>3</sup> See email from Kimberly Fisher to Norma Eagan, dated June 25, 2012, attached as **Exhibit 2**.

<sup>4</sup> See email chain between Matthew Peterson, Nellie Andrade, and Kimberly Fisher, dated July 5, 2012 and July 11, 2012, attached as **Exhibit 3**.

<sup>5</sup> *Id.*

<sup>6</sup> See email chain between Kimberly Fisher and Nellie Andrade, dated July 12, 2012, and July 26, 2012, attached as **Exhibit 4**.

<sup>7</sup> *Id.*

<sup>8</sup> See email chain between Kimberly Fisher and Matthew Peterson, dated July 5, 2012, August 6, 2012, and August 13, 2012, attached as **Exhibit 5**.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

Ms. Fisher disagreed that she was rude, but verified that they spoke about Mr. Peterson's qualifications and other things of that nature. She recapped the meeting in an email she sent to Mr. Hegarty.<sup>11</sup> In that email, she reiterated her feeling that Mr. Peterson was unqualified for his job. She also defended her work on getting the IT Department employees the keys they needed, noting that she was busy with other projects a lot of the time. At the end of that email, she wrote that she and Mr. Hegarty went to the IT offices on August 15 and determined that one lock would have to be changed, and that she had already put in an order to have that done. She also said she ordered additional keys, although it is unclear what keys she is referring to. Only one lock was changed, and that change was to put that room on the same key as the adjoining rooms. Room 30 was previously on the same key as room 31, but was changed to be the same as rooms 27-29.

It is clear from the above evidence that Ms. Fisher's story is not accurate. She claims that she gave temporary keys to everyone who was without a key, but that testimony is disputed by everyone we talked to in the IT Department, and there is no support for that claim in the emails people gave us. Moreover, it is inconsistent that Ms. Fisher told us that she gave everyone temporary keys, but other emails indicate that various IT employees were forced to wait outside until others showed up to get into the building.

### **c. Interference**

The other most commonly mentioned complaint about Ms. Fisher was similar to the key issue: IT employees complained that Ms. Fisher interfered with their work. For example, Mr. Hegarty has to sign off on certain documents like contracts and purchase orders. Several IT employees said that they had taken such documents to Mr. Hegarty, and that Ms. Fisher would act as a gatekeeper between the employee and Mr. Hegarty. She would delay in giving the documents to Mr. Hegarty, or just require that changes be made before she would give them to Mr. Hegarty for approval.

Ms. Fisher denied that she delayed anything improperly, but she did concede that she would hold things up from time to time so that she could make changes. She said that this is part of her job. During his interview, Mr. Hegarty agreed that he had no problem with Ms. Fisher helping out with these sorts of things, even looking at contracts to screen them for obvious issues. Mr. Hegarty did not want her to artificially delay anything, of course. And that is what several IT employees alleged Ms. Fisher had done.

An example of alleged interference beyond holding up a contract or purchase order, or IT employees obtaining keys to their workspace, involved Ms. Fisher going to the school board when she had a problem with two positions being filled in the IT

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<sup>11</sup> See email from Kimberly Fisher to Kevin Hegarty, dated August 19, 2012, attached as **Exhibit 6**.



Department reorganization. Ms. Fisher admitted that she did not support some parts of the reorganization of the IT Department. She told us that she thought the way things in the IT Department were changed in the reorganization was wrong. She expressed these concerns to her supervisor, Mr. Hegarty, but he did not prevent the reorganization or several parts of the reorganization with which she disagreed.

One of those things was that she felt that the position of Operations Specialist was graded too high. This position was the one that Ms. Murphy applied for. Ms. Murphy had been at a lower pay grade than Ms. Fisher, but if she was hired for the Operations Specialist position, she would have been at a higher pay grade than Ms. Fisher. Ms. Fisher attended a meeting of the school board to express her concerns directly to the board. The board delayed their approval of Ms. Murphy into the position. When Ms. Murphy was finally approved for the position, her pay was lowered.

Ms. Fisher also expressed concerns about Robert Dent's position. His placement into his position was also delayed as a result of Ms. Fisher going to the board.

Ms. Fisher told us that she did not do this out of jealousy, but out of a concern for fairness. She simply felt that the positions were classified incorrectly.

Evaluating Ms. Fisher's alleged interference on the whole, it is difficult to characterize it as clearly improper. Her supervisor approved of her looking at documents, unless it was for the purpose of delaying something. Unlike the keys incident, there isn't overwhelming evidence to determine if that was the case. Going directly to the school board to protest the pay grade for a position is not necessarily improper, although some of her comments may have contradicted policy G-0650 (GBEA), which says that "criticism [of other staff members or of any department] is to be made directly to the school administrator who has the responsibility for improving the situation."

In any event, although Ms. Fisher's interfering conduct may not have been improper, it demonstrates the difficult working relationship between her and the IT Department.

#### **d. Attitude**

Nearly everyone we spoke with about Ms. Fisher observed that her attitude was a problem. Ms. Fisher even conceded in our interview that she can be unpleasant at times, but that most people get along with her and that everyone can be unpleasant occasionally.

One of the most glaring examples of her problematic attitude is the August 10 email Ms. Fisher sent in response to a thank you note from the IT Department. This email followed on the heels of the August 6 email mentioned above, in which she said, "[f]alse information may be documented and used for an IT reorganization but please use the facts when referring to me."<sup>12</sup> The August 10 email was a response to an email sent by Ms. Murphy minutes prior, in which Ms. Murphy thanked several people for their efforts on a project relating to student ID cards.<sup>13</sup> Ms. Fisher forwarded a response to Mr. Hegarty and Mr. Peterson in response that said:

I am not property to be lent and I do not appreciate this email in any way at all. Please either have Kathern remove me from this type of email or have her consider her words. I will not be degraded by your over paid secretary because of her offensive nature and lack of appropriate knowledge."<sup>14</sup>

Mr. Peterson responded to the email by saying that there was no negative motive behind the thank you email, and that he hoped she could set aside her problems so they could work together.<sup>15</sup>

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<sup>12</sup> See **Exhibit 5**.

<sup>13</sup> The email from Ms. Murphy said, in its entirety:

Status Update:  
Student ID cards have been delivered (or we are delivering) to:  
Coyote Ridge  
Challenger  
Horizon  
Discovery  
Mensendick  
Burton  
Desert Spirit

Thank you Kevin, Eric, Jill for lending staff to our project. We could not have done this without their help.

Kathy

See August 10 email chain between Kathern Murphy, Kimberly Fisher, and Matthew Peterson, dated August 10, 2012 and August 13, 2012, attached as **Exhibit 7**.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

These two emails demonstrate that Ms. Fisher has a problem with her temper, and a problem working with others. Other employees told us about additional examples of this problem. For example, Mr. Dent told us about a time when Ms. Fisher requested that he insert a YouTube clip into a presentation for Mr. Hegarty. He refused to do that because he thought he would be violating copyright laws. He claims that she was hostile and rude toward him because of this. She denies this.

Several IT employees said that they considered Ms. Fisher's actions to rise to the level of more than just improper behavior; they believe that she is committing unlawful defamation. They expressed concern that their reputations were being damaged by Ms. Fisher. One said a law suit was already being considered.

Several employees also complained that Ms. Fisher would often talk about how they or others were unqualified to do their jobs, even if they had been in their position for a while. These allegations appear to be true. Ms. Fisher admitted to talking about Ms. Murphy's qualifications for her new position in our interview, and Ms. Fisher complained about Mr. Peterson being unqualified for his position in her August 19 email recap of her meeting with Mr. Hegarty and Mr. Peterson.<sup>16</sup> This kind of talk is insulting and rarely productive.

Ms. Fisher's behavior was described by various individuals as unprofessional, insulting, hostile, rude, nasty, and degrading. Ms. Fisher's own emails support that some or all of these comments are warranted, even if Ms. Fisher's conduct is not intentional.

## II. Analysis

Ms. Fisher's conduct has been unprofessional.<sup>17</sup> As noted above, she disputes many of the allegations against her, but not all of them. She obviously concedes that she sent the August 6 and August 10 emails. Both of these emails were unprofessional and hostile. Other allegations pertaining to specific events, like yelling at Mr. Dent about the YouTube clip, interfering with IT Department requests, and purposefully colliding with Ms. Murphy are disputed by Ms. Fisher, but if true would add to the finding that Ms. Fisher acted unprofessionally.<sup>18</sup>

<sup>16</sup> See Exhibit 6.

<sup>17</sup> See, policy G-0750 (GBEB), *supra* n. 1.

<sup>18</sup> Obviously, if Ms. Fisher purposefully collided with Ms. Murphy, that would be an egregious example of improper behavior that would warrant a severe response from the District.



At the very least, we are able to conclusively determine that Ms. Fisher has problems working well with others. Several people we interviewed indicated that Ms. Fisher has problems getting along with other people and departments in addition to the IT Department, including purchasing, accounts payable and finance. This is unacceptable, particularly in her role as Mr. Hegarty's assistant. Mr. Hegarty is over several departments, and Ms. Fisher acts as a conduit between Mr. Hegarty and those departments. If people have trouble working with her, that reduces the ability of those departments to function correctly and efficiently.

We are unable to conclusively determine that Ms. Fisher purposefully interfered with IT Department work, although her handling of the key requests from the IT Department was improper. Her claim that she provided temporary keys to everyone was contradicted by the testimony of everyone else we asked about that and the available emails. And her reasons for her delays were inconsistent and insufficient. For example, Ms. Fisher told us during our interviews with her that the locksmith was unavailable at times, and that she was busy with other projects at times. But later she said the sole reason for the delay was that a decision had to be made on re-keying some rooms before she agreed to make new keys. This excuse didn't appear in any of the email correspondence between the IT Department and her until after her August meeting with Mr. Peterson and Mr. Hegarty.

Other than the keys, though, it is unclear if Ms. Fisher deliberately interfered with IT Department work. Projects were admittedly delayed, but Mr. Hegarty wanted her to exercise her judgment to review documents and do some of the things that led to the delays. Whether she purposefully delayed things beyond that is difficult to determine.

Lastly, it is unclear if Ms. Fisher purposefully shoulder checked Ms. Murphy. The witness says she did, and the evidence of Ms. Fisher's temper militates toward a finding that she did, but the evidence is not overwhelming. What is overwhelming is the fear of IT Department employees that Ms. Fisher would act violently in the future.

