



JacksonLewis

INDEPENDENT INVESTIGATION REPORT

SUBMITTED TO:

BOARD OF EDUCATION OF MONTGOMERY COUNTY

SUBMITTED BY:

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JACKSON LEWIS P.C.

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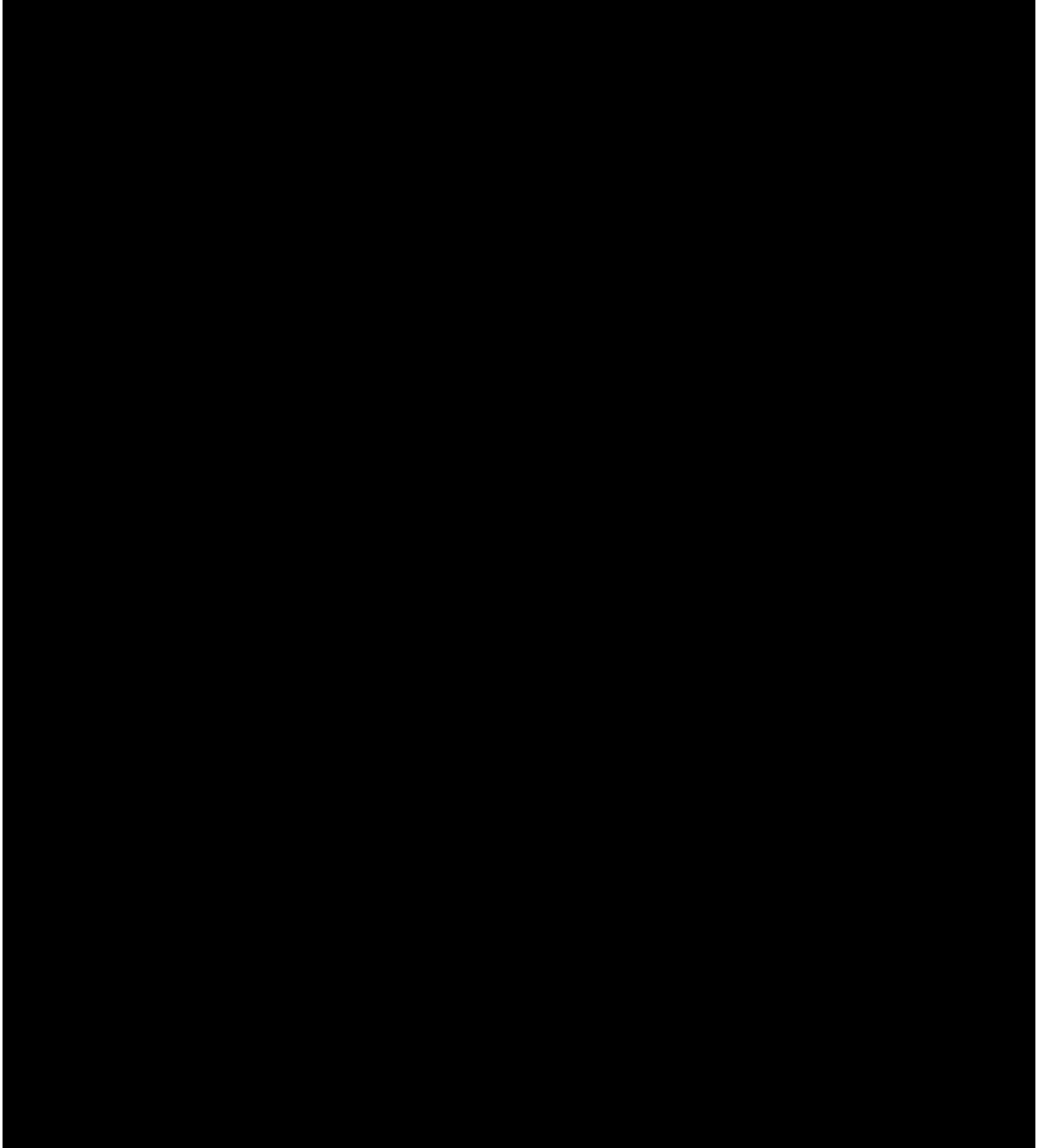


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I. Scope of Investigation

The Board of Education of Montgomery County (the “Board”) engaged Jackson Lewis P.C., (“Jackson Lewis”) to conduct a full and complete independent investigation into the June 2023 promotion of Employee 25 to Employee 25’s Job Title while [REDACTED] was under investigation for allegations of sexual harassment, bullying and other misconduct.¹ Specifically, the Board requested that Jackson Lewis examine whether, prior to Employee 25’s promotion, Montgomery County Public Schools (“MCPS”) management (1) received complaints or were otherwise aware of allegations of sexual harassment or other misconduct by [REDACTED], (2) whether any such complaints were appropriately investigated pursuant to MCPS policies and guidelines, (3) what, if any, actions MCPS took in response to any such complaints, and (4) whether these complaints impacted Employee 25’s promotion. This report provides our factual findings and summary of the evidence that we obtained during the investigation.

Because we investigated and made factual findings regarding MCPS leadership, including [REDACTED], we are issuing this report directly to the Board to maintain the independence of this investigation. Pursuant to the Board’s request, at this time, we are not providing any recommendations for subsequent actions based on the factual findings or opining on remedial measures to address any procedural issues.

II. Investigation Methodology

To achieve the tasked investigation objectives, Jackson Lewis attorneys Donald E. English, Jr., Esq., Kathleen A. McGinley, Esq., and Tonecia R. Brothers-Sutton, Esq., (the “Investigators”) identified individuals associated with MCPS, at any level - current or formerly employed - who knew or should have known about the complaints submitted against Employee 25, the response to each and/or who were involved in the promotion process. The Investigators identified and interviewed the following 30 current and former employees:

1. Employee 25
2. Employee 9
3. Employee 19
4. Employee 2
5. Employee 29
6. Employee 11
8. Employee 22
9. Employee 7
10. Employee 30
11. Employee 16

¹ Separate and apart from the present investigation, Jackson Lewis was engaged to investigate allegations of sexual harassment, discrimination, bullying and other misconduct against Employee 25 pursuant to Title IX and/or MCPS policies. On August 28, 2023, the Board informed us that Jackson Lewis would not conduct that investigation.

12. Employee 4
13. Employee 13
14. Employee 1
15. Employee 27
17. Employee 14
18. Employee 24
18. Employee 3
19. Employee 28
20. Employee 17
21. Employee 5
22. Employee 21
23. Employee 12
24. Employee 15
24. Employee 8
25. Employee 23
26. Employee 18
27. Employee 20
28. Employee 6
29. Employee 26
30. Employee 10

The Board was also interviewed on August 25, 2023 and September 1, 2023.

Some of these individuals were interviewed more than once as additional and/or conflicting information was learned during the investigation. In total the Investigators completed over 59 interviews of key MCPS personnel. All witnesses, regardless of their employment status with MCPS were given an Upjohn Warning in accordance with the directives and prevailing standards established by the United States Supreme Court in *Upjohn Co. v. United States*, 449 U.S. 383 (1981).

The Investigators also identified and reviewed documents related to the submitted complaints against Employee 25, MCPS' processes regarding complaint investigations, any investigation performed and the promotional process in June 2023, including:

- Emails and text messages exchanged between relevant witnesses;
- Five Lighthouse Hotline Incident Report Summaries referencing Employee 25 dated February 7, 2023 (2), February 9, 2023, March 25, 2023, and May 19, 2023;
- Summaries of Maryland Safe School Tip Line reports received regarding Employee 25 on May 6, 2022, October 19, 2022, and July 20, 2023;
- Documents regarding three student-related complaints concerning Employee 25;

- The investigative file regarding the Employee 32 Investigation from Department of Compliance (“DCI”), including draft reports and final reports;
- The investigative file regarding the Employee 31 Investigation from DCI;
- Written reprimands issued to Employee 25 in July and August 2023;
- Letters from MCPS to the [REDACTED] community in July and August 2023;
- Letter from the Maryland Office of the Inspector General for Education dated August 29, 2023;
- Minutes from Board meetings in 2023;
- Notes from Core Team² meetings in June and August 2023;
- Organizational charts for MCPS;
- Board Policies and MCPS Regulations³;
- Notes and related documents from the hiring process for the [REDACTED] [REDACTED] position in May and June 2023; and
- Personnel file of Employee 25.

These documents were collected from the witnesses directly, MCPS departments, and from MCPS’ electronic systems and hardware. The Investigators along with their Jackson Lewis Electronic Stored Information team collaborated with the MCPS Information Technology team to identify storage areas where relevant electronic documents and communications were stored on MCPS’ network. Employing eDiscovery applications and third-party software, electronic files were extracted from the accounts of multiple custodians. Over 30,000 documents were collected from the MCPS email accounts, and text message discussion threads were collected from 10 MCPS cellular phones. These files included documents from both Microsoft and Google accounts, and text message threads from custodians’ cellular phones. The Microsoft and Google account files were extracted from MCPS’ network and transferred to a third party Electronically Stored Information (ESI) vendor. The files were processed to extract file contents and metadata, and the documents were hosted on an ESI platform that the Investigators accessed to perform their review.

The information collected and analyzed by the Investigators was gathered under the attorney-client privilege and attorney work product doctrine and treated securely and confidentially. The Investigators kept the Board apprised of the status of the investigation and were given complete independence to schedule and conduct interviews as needed and to collect documents that the Investigators identified. The Investigators prepared this report and the findings herein without input, influence, or interference from MCPS.

² The CORE Team consisted of Employee 3, Employee 21, Employee 4, and Employee 18.

³ Linked here: <https://ww2.montgomeryschoolsmd.org/departments/policy/index.aspx>

III. Summary of Factual Findings

A. No Anonymous Complaints Or Collateral Complaints⁴ Against Employee 25 Were Formally Investigated; However, All Student Complaints And Formal Complaints By Staff Were Investigated.

i. Anonymous Complaints

There were several anonymous complaints made against Employee 25 from October 2021 through July 2023,⁵ including three Maryland Safe Schools Tip Line anonymous complaints, five Lighthouse⁶ anonymous complaints and a May 9, 2022 email from a Montgomery County Education Association (“MCEA”) representative that included several anonymous allegations about Employee 25. All of these anonymous complaints were received by DCI, but none were formally investigated because DCI has a long-standing practice of not formally investigating anonymous complaints.

ii. Student Complaints

Since arriving to ██████████ in 2013, there were three complaints against Employee 25 involving sexual harassment and/or bullying behavior towards students, including (1) a July 2017 complaint that Employee 25 referred to a student as a “whore,” (2) an October 2017 complaint that Employee 25 utilized an improper restraint technique on a student, and (3) complaints that Employee 25 made a reference to “hoes and thots” during a January 2018 student assembly. All of these complaints involving students were investigated and resolved by Employee 25’s supervisors.

iii. Formal And Collateral Complaints To DCI

In March 2023, Employee 31 lodged a complaint against Employee 25 for retaliation and bullying in connection with a disagreement about ██████ courses (the “Employee 31 Investigation”). That complaint was investigated by DCI and not substantiated in April 2023.

In February 2023, Employee 32, complained that Employee 25 engaged in sexual harassment and workplace bullying (the “Employee 32 Investigation”). Some of the witnesses interviewed in connection with the Employee 32 Investigation raised separate allegations against

⁴ For the purpose of this report, “collateral complaints” are separate complaints identified to DCI by witnesses to the Employee 32 Investigation.

⁵ We are not aware of any anonymous complaints against Employee 25 prior to October 2021.

⁶ MCPS uses third-party contractor, Lighthouse, to administer its anonymous complaint tip line.

Employee 25 involving sexual harassment and bullying. DCI did not investigate those collateral complaints because those witnesses did not file formal complaints.

While Employee 25 was being considered for promotion in June 2023, the Employee 32 Investigation was still pending. A few key MCPS leaders involved with Employee 25's promotion knew about that investigation and failed to take reasonable steps to ascertain the nature of the allegations, preliminary findings of the investigation, and/or inform the Superintendent and the Board about the investigation.

B. Prior To Employee 25's Promotion, Members Of MCPS' Leadership Knew About The Employee 32 Investigation, But Did Not Take Any Actions To Ascertain The Details Of The Investigation And Did Not Notify The Board.

Of the MCPS staff that participated in Employee 25's promotion, Employee 21, Employee 14, Employee 5, Employee 13, and Employee 22, knew about the Employee 32 Investigation prior to the promotion. Those five individuals did not inquire about the specific nature of the allegations against Employee 25, the preliminary findings from the investigation, nor the specific level of discipline that was going to be implemented against Employee 25. All of this information was available to them prior to the promotion. There is insufficient evidence that this failure to inquire was intentional and/or designed to conceal the allegations.

Employee 5 took steps to try to prevent Employee 25 from being promoted based on [REDACTED] limited knowledge about the pending investigation, [REDACTED] concerns about Employee 25's reputation, and [REDACTED] personal interactions with [REDACTED]. Unfortunately, Employee 21 did not act on [REDACTED] concerns. Shortly before the promotion, Employee 5 specifically expressed [REDACTED] concerns to Employee 21 about the proximity of the investigation with the promotion and [REDACTED] concerns about rumors that Employee 25 has had inappropriate relationships with [REDACTED] staff. In doing so, Employee 5 told Employee 21 that [REDACTED] did not support Employee 25 for promotion. Despite Employee 5's concerns, Employee 21 recommended Employee 25 for promotion without relaying Employee 5's concerns to Employee 3 or the Board.

Employee 14 was ultimately responsible for the Employee 32 Investigation in [REDACTED] capacity as the Employee 14 Job Title. As a result, Employee 3 and the Board relied on Employee 14 to make [REDACTED] aware of and to disclose any relevant personnel information about Employee 25, including the pending status of the Employee 32 Investigation. On June 12, 2023, the same day that Employee 14 recommended Employee 25 as a finalist for promotion, Employee 14's DCI team issued a draft report finding that Employee 25 had engaged in sexual harassment in violation of MCPS policy. Employee 14 did not inquire whether there was a draft report at any time prior to Employee 25's promotion on June 27, 2023. In fact, Employee 14 never reviewed Employee 32's complaint or the investigative file.

Prior to the promotion, Employee 22 was Employee 25's direct supervisor and Employee 13 stood to become Employee 25's [REDACTED] if [REDACTED] was selected for the position.

Both Employee 22 and Employee 13 supported Employee 25's promotion without inquiring about the details of the investigation.

Prior to the promotion, Employee 3 was generally aware that there were concerns about Employee 25's conduct "swirling around," but [REDACTED] apparently was not specifically aware of the pending investigation. Employee 21 did not specifically remember if [REDACTED] informed Employee 3 about the investigation prior to the promotion. Employee 3 did not take any action to inquire about details regarding what concerns were "swirling around" Employee 25 prior to [REDACTED] recommendation to promote [REDACTED].

There is no evidence that the Board was aware of the investigations or any allegations relating to Employee 25 prior to its June 27, 2023 decision to promote Employee 25. We reviewed the May 3, 2022 anonymous email that was allegedly sent to the Board and Employee 3; however, there is no evidence that email was sent to or received by the Board and/or Employee 3.

C. After Learning About The Investigation, Letter Of Reprimand And Washington Post Inquiries, Employee 3 Did Not Promptly Place Employee 25 On Administrative Leave And Did Not Notify The Board About Those Issues At The July 20, 2023 Board Meeting.

Employee 3 indicated that [REDACTED] would not have recommended Employee 25 for promotion had [REDACTED] known about the pending investigation or the letter of reprimand. However, once Employee 3 did know about the investigation and the imminent letter of reprimand, [REDACTED] did not take any immediate action to remove Employee 25 from the position. By July 19, 2023, Employee 3 was fully aware of the investigation, the letter of reprimand and initial inquiries by the Washington Post soliciting information from witnesses about Employee 25's misconduct. Employee 3 did not put Employee 25 on administrative leave until August 4, 2023. The decision to place Employee 25 on administrative leave sixteen days after [REDACTED] learned about the investigation and letter of reprimand was due to the imminent media coverage and detailed inquiries by the Washington Post in early August 2023 about Employee 25's alleged misconduct and not due to the investigation or letter of reprimand.

Employee 3 attended the July 20, 2023 Board meeting. During that meeting, [REDACTED] did not inform the Board of [REDACTED] knowledge about the Employee 32 Investigation, the letter of reprimand or the initial Washington Post inquiries. The Board was not made aware of any issues with Employee 25's promotion until on or about August 4, 2023, which was the same day that Employee 25 was placed on administrative leave.

On July 20, 2023, Employee 21, Employee 5, Employee 13 and Employee 11 were forwarded a Maryland Safe Schools Tip Line complaint alleging that Employee 25 had inappropriate relationships with two named staff members and that [REDACTED] had been seen intoxicated with staff several times. Employee 21 told Employee 3 about the July 20, 2023 Tip Line complaint

at some point after the Board meeting. Employee 3 and/or Employee 21 never informed the Board about that complaint.

D. Employee 23 Improperly Altered The Employee 32 Investigation Timeline.

In February 2023, Employee 6, was assigned as the lead investigator for the Employee 32 Investigation. Employee 6 interviewed all of the witnesses and reviewed all of the relevant documents in connection with the investigation. Throughout the investigation, Employee 6 discussed the status of the investigation with ■ supervisor, Employee 23. Unbeknownst to Employee 6, on June 1, 2023, Employee 23 told Employee 25 that ■ would not be found responsible for sexual harassment or bullying in connection with the Employee 32 Investigation, but that there would be a finding and written documentation regarding ■ drinking of alcohol with subordinates. In early June, Employee 23 also told Employee 5 and Employee 14 that there would not be any finding of sexual harassment against Employee 25.

Unaware of Employee 23's assurances to Employee 25, Employee 5 and Employee 14 that there would be no finding of sexual harassment, on June 12, 2023, Employee 6 provided a draft of ■ investigation report to Employee 23. That draft report contained a finding that Employee 25 engaged in sexual harassment in violation of MCPS policy. Employee 23 took no action with the report in June 2023.

On June 28, 2023, one day after Employee 25's promotion, Sean Chaney Supervisory Inspector for the Maryland Office of Inspector General for Education ("OIGE"), contacted Employee 23 via email about a complaint that he received regarding Employee 25. *See Exhibit 19.* Employee 23 did not respond to that email until July 6, 2023. On July 6, 2023, Mr. Chaney and Employee 23 discussed a complaint that he received of an alleged cover-up of the Employee 32 Investigation. *See Exhibit 20.* Consistent with what ■ told Employee 25, Employee 5, and Employee 14, Employee 23 told Mr. Chaney that there would be no finding of sexual harassment against Employee 25. *See Exhibit 21.*

On July 11, 2023, Employee 23 directed Employee 6 to change ■ finding of sexual harassment in the draft report to a finding of no sexual harassment. Employee 23 indicated that ■ did not think that the evidence demonstrated that Employee 25's alleged conduct was unwelcome. ■ also had concerns about Employee 32's credibility and the inconsistency of the witness statements. As a result of Employee 23's instruction, Employee 6 changed ■ draft report on July 12, 2023 to reflect that there was not enough evidence to substantiate sexual harassment in violation of MCPS policy. That report was reviewed by the Office of General Counsel and finalized on July 21, 2023.

On July 21, 2023, Employee 23 was requested to and did submit an investigation timeline to Employee 1, the newly appointed Employee 1 Job Title. *See Exhibit 16.* According to Employee 23, ■ simply copied the timeline that Employee 6 provided to ■ for the timeline that ■ submitted to Employee 1 on July 21, 2023. Employee 6's timeline accurately reflected that

Employee 23 instructed [REDACTED] to change [REDACTED] June 12, 2023 report on July 11, 2023. *See* Exhibit 18. However, the timeline that Employee 23 provided to Employee 1 modified Employee 6’s timeline to reflect that [REDACTED] instructed [REDACTED] to change [REDACTED] June 12, 2023 report on June 26, 2023 and not on July 11, 2023. The motivation for Employee 23 changing the date that [REDACTED] directed Employee 6 to change [REDACTED] sexual harassment finding is unclear; however, June 26, 2023 is both before Employee 25’s promotion and before Mr. Chaney contacted [REDACTED]. We find that Employee 23 altered the Employee 32 Investigation timeline in violation of MCPS’ Employee Code of Conduct, which prohibits submitting incorrect or false information to MCPS and requires employees to act honestly in the completion of their job duties.

IV. Timeline of Key Events

Date	Event
July 11, 2017	Parent requests Change of School Assignment alleging that Employee 25 called a female student a “whore.” This was investigated and addressed.
October 27, 2017	Parent and student complain that Employee 25 improperly restrained student. This was investigated and addressed.
January 31, 2018	Parents and staff complain that Employee 25 called female students “hoes and thots” during an assembly. This was investigated and addressed.
October 19, 2021	First anonymous complaint is filed against Employee 25 via Maryland State Tip Line alleging that Employee 25 made inappropriate comments about the appearance of women, created a hostile environment and threatened staff. No formal investigation of complaint by DCI.
May 3, 2022	Anonymous email is purportedly sent to the Board and Employee 3 alleging that Employee 25 is emotionally abusive and sexually harasses staff. The email also referenced the “hoes and thots” incident and the alleged improper restraint of a student. That email was not received by Employee 3 or the Board.
May 6, 2022	Second anonymous complaint is filed against Employee 25 via Maryland State Tip Line alleging Employee 25 sexually harassed [REDACTED] by making comments about [REDACTED] being [REDACTED] and about [REDACTED] sex life. No formal investigation of complaint by DCI.
May 9, 2022	MCEA reports anonymous complaints against Employee 25 to Employee 19 and Employee 2 and attaches May 3, 2022 anonymous email. Employee 2 forwards email to Employee 23. Employee 23 forwards email to Employee 20. No formal investigation of complaint by DCI.

February 3, 2023	Employee 32 files formal complaint against Employee 25 alleging sexual harassment, bullying and other misconduct. The complaint is formally investigated by DCI.
February 7, 2023	Two anonymous complaints are filed against Employee 25 via Lighthouse alleging that Employee 25 targets staff who speak out against █████ to the union, and bullies and retaliates against staff. One of the anonymous complaints also alleged that there was an anonymous email sent a year prior and nothing was done about it. No formal investigation of complaints by DCI.
February 9, 2023	Third anonymous complaint is filed against Employee 25 via Lighthouse alleging that Employee 25 engaged in unfair hiring practices by offering jobs to individuals who were not interviewed and giving preference to women on █████ leadership team. No formal investigation of complaint by DCI.
February 27, 2023	Employee 31 files a formal complaint against Employee 25 alleging retaliation and bullying. DCI formally investigates complaint.
March 25, 2023	Fourth anonymous complaint is filed against Employee 25 via Lighthouse alleging that Employee 25 violated Title IX by imposing harsher punishment on a female student than on a male student who were both disciplined for engaging in a sexual act in the school. DCI does not formally investigate the complaint, but the issue is addressed by Employee 22.
April 4, 2023	Employee 31 investigation is closed with no finding of bullying or retaliation.
May 19, 2023	Fifth anonymous complaint is filed against Employee 25 via Lighthouse alleging that Employee 25 hired a staff member who did not interview for the job and who sat on the interview panel for that job. No formal investigation of complaint by DCI.
May 31, 2023	Employee 13 recommends five candidates including Employee 25 for the Job Title to the Appointments Committee.
June 1, 2023	Employee 23 tells Employee 25 that █████ will not be found responsible for sexual harassment or bullying in connection with the Employee 32 Investigation, but that there will be a finding and written documentation for █████ drinking alcohol with subordinates.
June 5, 2023	Employee 25 participates in community panel interview for Job Title.
June 5, 2023	Employee 23 informs Employee 5 and Employee 1 that there will be no finding of sexual harassment in the Employee 32 Investigation, but Employee 25 would be receiving written

	documentation for other misconduct. Employee 14 is also informed that there will be no finding of sexual harassment in early June.
June 7, 2023	The Appointments Committee recommends three candidates including Employee 25 to proceed to the finalist interview.
June 12, 2023	Employee 5, Employee 13, and Employee 14 conduct finalist interviews. They recommend Employee 25 and an external candidate to interview with Employee 3 and Employee 21.
June 12, 2023	Employee 6 submits ■ first draft of the Employee 32 investigative report with a finding of sexual harassment in violation of MCPS policy to Employee 23.
June 14, 2023	Employee 3 and Employee 21 conduct interview of Employee 25 and external candidate. They both decide to recommend Employee 25 for the position.
Mid-June 2023	Employee 5 expresses concerns to Employee 21 about promoting Employee 25 while ■ is under investigation. ■ also expresses ■ concern about rumors that Employee 25 has engaged in inappropriate relationships with staff, as well as ■ experiences with Employee 25 making inappropriate comments.
June 27, 2023	Employee 21 and Employee 5 meet with Employee 25 regarding the status of the investigation into ■ conduct. Employee 25 assures Employee 21 that ■ is clear from any misconduct.
June 27, 2023	The Board appoints Employee 25 as Employee 25 Job Title.
June 28, 2023	Sean Chaney, Supervisory Inspector, OIGE emails Employee 23 stating that they have received a complaint regarding an MCPS employee. Employee 23 does not respond.
June 30, 2023	Mr. Chaney sends another email to Employee 23 stating that their office received another complaint regarding the same MCPS employee and that they would like to discuss. Employee 23 does not respond.
July 6, 2023	Employee 23 responds to Mr. Chaney's request to meet regarding complaints the OIGE has received. Mr. Chaney asks Employee 23 about complaints against Employee 25. Employee 23 tells OIG that there was no finding of sexual harassment.
July 10, 2023	Washington Post sends a Maryland Public Information Act ("MPIA") request for Employee 25's personnel file.
July 11, 2023	Employee 23 instructs Employee 6 to change ■ finding in the Employee 32 investigative report to no sexual harassment.
July 11, 2023	Employee 11 receives text messages regarding the Washington Post soliciting information from MCPS employees about

	Employee 25. Employee 11 sends these messages to Employee 13.
July 12, 2023	Employee 6 submits [REDACTED] second draft of the Employee 32 investigative report with the finding of no sexual harassment, per Employee 23's instruction.
July 16, 2023	The Office of General Counsel reviews the second draft of the Employee 32 investigative report.
July 18, 2023	Employee 3 is informed by a friend that the Washington Post is writing a story on Employee 25.
July 19, 2023	Employee 3, Employee 21, Employee 4, Employee 18, and Employee 11 meet to discuss the Employee 32 investigation and [REDACTED] impending letter of reprimand.
July 19, 2023	Washington Post sends second MPIA request for contracts awarded to Employee 25 throughout [REDACTED] tenure with MCPS.
July 20, 2023	Employee 21, Employee 5, Employee 1, Employee 23, and Employee 4 meet to discuss Employee 25's letter of reprimand. Employee 23 confirms that Employee 25 is receiving a letter of reprimand for other misconduct.
July 20, 2023	Employee 3 attends Board meeting and does not inform Board of Employee 32 Investigation, the letter of reprimand or the Washington Post inquiries.
July 20, 2023	Third anonymous complaint is filed against Employee 25 via Maryland State Tip Line alleging that Employee 25 had an inappropriate relationship with two named staff members and was intoxicated with staff. This complaint is also sent to Employee 5, Employee 13, and Employee 11. Employee 3 is informed about this complaint after the Board meeting.
July 21, 2023	DCI issues final Employee 32 investigative report finding that there was insufficient evidence to support a finding of sexual harassment or bullying in violation of MCPS policy, but that Employee 25 violated the MCPS Code of Conduct by making inappropriate comments and drinking with subordinates.
July 26, 2023	MCPS issues Employee 25 a letter of reprimand as a result of the findings from the Employee 32 Investigation.
August 1, 2023	Employee 11 receives detailed questions from the Washington Post regarding allegations against Employee 25 and other employees' knowledge of such allegations.
August 4, 2023	Employee 25 is placed on administrative leave.
August 8, 2023	MCPS revises Employee 25's letter of reprimand.
August 10, 2023	Employee 3 reviews the letter of reprimand that was issued to Employee 25.

V. Discussion of Factual Findings

A. **MCPS Failed To Formally Investigate Anonymous And Collateral Complaints Against Employee 25.**

From July 2017 to July 2023, the following complaints were received by MCPS regarding Employee 25's conduct towards staff or students:

- Maryland Safe Schools Tip Line Complaints:
 - May 6, 2022
 - October 19, 2022
 - July 20, 2023
- Lighthouse Complaints:
 - February 7, 2023
 - Second February 7, 2023
 - February 9, 2023
 - March 25, 2023
 - May 19, 2023
- Email to DCI:
 - May 3, 2022
 - May 9, 2022
- Student-related Complaints:
 - July 11, 2017 Change of School Assignment
 - October 27, 2017 student restraint issue
 - January 2018 assembly comments re: “hoes and thots”
- DCI Complaints:
 - February 3, 2023 Complaint by Employee 32
 - March 1, 2023 Complaint by Employee 31
 - February 3 through April 24, 2023 collateral complaints received by witnesses to Employee 32 Investigation

As discussed below, MCPS did not formally investigate (by interviewing witnesses, interviewing the accused, or rendering a written determination pursuant to its policies, including Board Policy and Regulations ACA, ACA-RA, ACH, ACH-RA, ACF, ACF-RA, ACI or ACI-RA) any of the multiple anonymous complaints regarding Employee 25 that it received between October 2021 through July 2023. Many of those anonymous complaints contained sufficient details to enable DCI to initiate a formal investigation, pursuant to its policies and procedures for investigating complaints against staff. DCI similarly failed to formally investigate collateral complaints that were brought to it by witnesses that were interviewed for the Employee 32 Investigation.

MCPS did investigate and address the three student-related complaints against Employee 25. DCI also investigated and addressed the two formal complaints brought by staff against Employee 25 – the Employee 32 Investigation and the Employee 31 Investigation.

We discuss our findings for each category of complaints⁷ below.

i. Anonymous Complaints From 2021-2023 Were Not Formally Investigated

Starting in the Fall of 2021, several anonymous complaints were made against Employee 25. *See, e.g.*, Exhibits 1-5. Those complaints were made via the Maryland Safe Schools Tip Line, Lighthouse and via email to DCI. Despite the fact that many of the anonymous complaints involved allegations of violations of Title IX,⁸ DCI did not inform the Title IX coordinator about these complaints and no Title IX inquiry was initiated. *See, e.g.*, Exhibit 4. Further, despite the fact that many of those anonymous complaints contained specific allegations, none of those anonymous complaints were formally investigated by DCI or anyone else at MCPS. DCI has a standing practice of not opening formal investigations into any anonymous complaints. Directors of OSSWB generally have a practice of deferring to DCI’s decision not to investigate anonymous complaints, even when those Directors are aware of specific allegations contained in those anonymous complaints.

Despite this practice, DCI should have investigated the anonymous complaints against Employee 25 because of the number of complaints that were received in a relatively short period of time and because some of the complaints provided specific details about the alleged misconduct that could have formed the basis of an investigation. MCPS has no process or practice to catalogue similar complaints received from different sources. Further, to the extent that they were made aware of specific allegations, Employee 25’s supervisors should have inquired about those allegations by interviewing identified witnesses or further investigating to determine relevant witnesses to interview. At a minimum, ■ supervisors should have discussed the allegations with Employee 25 before determining whether to formally investigate.

ii. The Three Maryland Safe Schools Tip Line Anonymous Complaints Were Not Formally Investigated

⁷ We searched for complaints from 2013 (Employee 25’s first year at ■■■■■) through the end of July 2023. The complaints discussed in this section are the only complaints that we identified during that time period.

⁸ Title IX prohibits sex-based discrimination in any school that receives federal funding.

There were three complaints that were forwarded to DCI from the Maryland Safe Schools Tip Line regarding Employee 25. Two of those complaints occurred before Employee 25's promotion.⁹

The first complaint was dated October 19, 2021. That anonymous complaint alleged that Employee 25 made comments about the appearance of women and that ■ discussed "camel toe" with the staff. The complaint alleged that Employee 25 has created a hostile environment and threatened staff if they talked to others outside of the school. The complaint also alleged that staff are scared to make complaints for fear of retribution from Employee 25. DCI received the complaint, but did not conduct a formal investigation into this complaint because it was anonymous. Instead, the complaint was forwarded to Employee 20 who also did not conduct a formal investigation. However, Employee 20 did meet with Employee 25 about the allegations and increased ■ visits to the schools so ■ could further observe Employee 25.

The second Maryland Safe Schools Tip Line anonymous complaint was received on May 6, 2022. The anonymous complainant alleged that Employee 25 sexually harassed ■ by making comments about ■ being ■ and making comments about ■ sex life. The complaint also alleged that Employee 25 was intoxicated at school events, including at an Outdoor Education event. Lastly, the complainant alleged that ■ has had to take mental health leave during the school year to protect ■. This complaint was received by Employee 23 and Employee 20. Despite the specific allegations about Employee 25's conduct, Employee 23 and Employee 20 did not formally investigate the allegations because the complaint was anonymous. Employee 23 apparently did informally examine the intoxication allegation. Employee 25 reported that Employee 23 talked to ■ about whether ■ was intoxicated at an event, which ■ denied. ■ explained that ■ was fatigued after being awake all night, which made ■ appear to be weary the next day.

The last Maryland Safe Schools Tip Line anonymous complaint was on July 20, 2023, after Employee 25's promotion. That complaint alleged that Employee 25 has had several inappropriate relationships with members of ■ staff.¹⁰ The complaint also alleged that Employee 25 made inappropriate advances toward several staff members. Lastly, the complaint alleged that Employee 25 has been intoxicated with staff several times and that ■ had a previous DUI. This complaint was received by Employee 23, Employee 13, Employee 5, Employee 21 and Employee 11, on July 20, 2023. However, no action was taken because the complaint was anonymous. There was enough information to initiate a formal investigation into this complaint because specific

⁹ These tips are by their nature anonymous: <https://schoolsafety.maryland.gov/Pages/Tipline.aspx>.

¹⁰ The names of two staff members who allegedly had inappropriate relationships with Employee 25 were included in the anonymous complaint. To respect the privacy of those two individuals, we have not included their names in this report.

individuals were identified who were allegedly involved in an inappropriate relationship with Employee 25.

iii. The Five Lighthouse Anonymous Complaints Were Not Formally Investigated

MCPS utilizes a third-party service, Lighthouse, to provide complaint hotline services. From February 7, 2023 through May 19, 2023, there were five anonymous complaints about Employee 25 received through the Lighthouse hotline. Like the Maryland Safe Schools Tip Line anonymous complaints, none of the Lighthouse complaints were formally investigated.

On February 7, 2023, an anonymous complaint was filed with Lighthouse alleging that Employee 25 targeted staff who spoke out against [REDACTED] to the union. *See* Exhibit 1. The complaint also alleged that [REDACTED] bullied and retaliated against staff, which caused mental health issues with the staff. The complaint also referenced the “hoes and thots” comment by Employee 25 at the January 2018 assembly. The complaint further alleged that Employee 29, was aware of Employee 25’s behavior. Employee 23 indicated that [REDACTED] did not investigate this anonymous complaint because the complaint was duplicative of Employee 32’s complaint that DCI received on February 3, 2023. However, this anonymous complaint had different allegations, including allegations of bullying behavior towards men and women. Further, this complaint identified Employee 29 as a witness. Employee 29 was not interviewed in connection with the Employee 32 Investigation even though [REDACTED] was also identified as a witness by Employee 32.¹¹ Employee 23 did not forward this Lighthouse complaint (or any Lighthouse complaint) to Employee 6 to investigate as part of the Employee 32 Investigation. Had [REDACTED] done that, Employee 6 could have spoken to Employee 29 and investigated the additional allegations in this anonymous complaint.

The second anonymous Lighthouse complaint was also filed on February 7, 2023. *See* Exhibit 2. That complaint alleged that “an anonymous email detailing the misconduct of Employee 25 was sent almost a year ago and nothing was done about it.” It also alleged that Employee 25 had destroyed the staff’s morale, which had resulted in staff leaving the school. This complaint apparently referenced the May 3, 2022 anonymous email that Employee 23 received on May 9, 2022, which is discussed below. Despite the fact that this was the second time that the anonymous email was raised to Employee 23, [REDACTED] decided not to initiate a formal investigation due to DCI’s practice of not investigating anonymous complaints. Instead, [REDACTED] called OHRD to inquire whether an increased number of staff had left the school and was satisfied with the verbal response. At a minimum, Employee 23 should have ensured that Employee 14 was made aware of this second anonymous complaint and the email that it references so it could be reviewed for action.

¹¹ Employee 29 had relevant information to substantiate portions of Employee 32’s February 3, 2023 report, including that Employee 32 reported to [REDACTED] that [REDACTED] was receiving hang-up calls from [REDACTED] phone line at night that [REDACTED] believed to be from Employee 25.

The third anonymous Lighthouse complaint was filed on February 9, 2023. *See* Exhibit 3. That complaint alleged that Employee 25 engaged in unfair hiring practices by offering jobs to individuals who were not interviewed and giving preference to women on [REDACTED] leadership team. In addition, the complaint alleged that Employee 25 stated that [REDACTED] “only want[s] women in their 20’s who drink and party.” Employee 23 received this complaint. [REDACTED] indicated to the Investigators that [REDACTED] informally checked with the hiring staff in OHRD and verified that no one was hired at [REDACTED] who did not interview. However, Employee 23 did not investigate the allegation that Employee 25 engaged in discriminatory hiring practices in favor of women. [REDACTED] also did not inquire about Employee 25’s alleged comment. The complaint was again not escalated, including to the [REDACTED].

The fourth anonymous complaint was filed on March 25, 2023 and alleged that Employee 25 violated Title IX by imposing harsher punishment on a female student than on a male student who were both disciplined for engaging in a sexual act in the school. *See* Exhibit 4. The complaint also alleged that Employee 25 had a history of treating female students unfairly and referenced the January 2018 “hoes and thots” incident. Employee 23 did not initiate a formal investigation of this incident, but [REDACTED] indicated to the Investigators that [REDACTED] did speak to Employee 22 to inform [REDACTED] about the complaint and was assured that the disciplinary incident was handled with the parents. *See also* Exhibit 22. The Investigators spoke to Employee 25 about this incident, and [REDACTED] said that the female student was involved in a similar prior incident with a different male student and both students received a two-day detention because it was their first incident. [REDACTED] indicated that the male student from the second incident also received a two-day detention because it was his first incident. [REDACTED] said that the female student received suspension because it was her second incident. Employee 25 confirmed that Employee 22 was aware of this incident and the issue was addressed with the parents of the students. This complaint was again not escalated beyond DCI.

The final anonymous Lighthouse complaint was filed on or about May 19, 2023. *See* Exhibit 5. That complaint, similar to the February 9, 2023 complaint, alleged that Employee 25 hired a staff member who did not interview for the job and who sat on the interview panel for that job. Employee 23 did not initiate a formal investigation into this complaint, but [REDACTED] indicated that [REDACTED] verbally verified with OHRD that all individuals who Employee 25 hired in Spring 2023 had interviewed for the positions. Employee 23 did not inquire with anyone at OHRD about the allegation that a staff member was hired for a position that he/she also sat on the interview panel for that job. This final Lighthouse complaint was again not escalated beyond DCI.

iv. The May 3, 2022 And May 9, 2022 Emails Containing Anonymous Allegations Were Not Formally Investigated

A May 3, 2022 email from concernedmemberofmcps@gmail.com contains various allegations about Employee 25, including that [REDACTED] is emotionally abusive and sexually harasses staff. *See* Exhibit 6. In addition, the author references the Maryland Safe Schools Tip Line complaints and the January 2018 “hoes and thots” incident. The email further alleges that Employee 25’s former Employee 17 Job Title, Employee 17, protected Employee 25. Further, the

email references an alleged DUI and affair that Employee 25 had while [REDACTED] worked at [REDACTED]. Lastly, the email also references an alleged illegal restraint by Employee 25.

The introductory paragraph of the email says “Dear Members of the Board and Employee 3;” however, there is no evidence that this email was actually sent to Employee 3 and the Board or received by them. This email was not addressed to any email account and no email account was sent a courtesy copy. Apparently, anyone that was allegedly sent this email was blind copied. The Jackson Lewis Electronic Stored Information team and the MCPS Information Technology team searched the MCPS servers for this anonymous email and it was not found in any Board member’s email account or Employee 3’s email account. Both Employee 3 and each member of the Board confirmed that they never received that email. Based on this evidence, we find that this May 3, 2022 email was never received by the Board or Employee 3.

On May 9, 2022, that email was forwarded by Lindsay Barrett, Managing Director of Field Operations, MCEA to Employee 2, [REDACTED] and Employee 19, former Employee 19 Job Title, [REDACTED]. See Exhibit 6. Ms. Barrett also included several other anonymous allegations of sexual harassment and other misconduct in the May 9, 2023 email to Employee 2 and Employee 19. Those anonymous allegations included that Employee 25 made comments about the appearance of female staff members and their breast sizes, stared at female staff members, and engaged in sexual relationships with staff. The email also referenced the January 2018 “hoes and thots” incident. The email further stated that there were concerns that Employee 25 was being protected by MCPS because nothing had been done about these allegations and that there was a need for an independent investigation so that [REDACTED] staff will not be subjected to retaliation.

Employee 2 responded to Ms. Barrett by telling her that pursuant to MCPS policies, any individual who is subjected to sexual harassment can file a complaint and will not be subjected to retaliation. See Exhibit 6. Employee 2 also told Ms. Barrett that [REDACTED] would forward the email to DCI. That same day, Employee 2 forwarded Ms. Barrett’s May 9, 2022 email (including the May 3, 2022 anonymous email) to Employee 23. See Exhibit 6. Employee 23 then forwarded that email to Employee 20 and Employee 33. See Exhibit 6. Employee 23 talked to both Employee 20 and Ms. Barrett to ascertain whether there was any known complainant or witness. After verifying that there was no known complainant or witness to any of the allegations, Employee 23 decided not to initiate any further or formal investigation into Ms. Barrett’s May 9, 2022 email and/or the May 3, 2022 anonymous email.

v. Complaints Involving Students Were Addressed By Employee 25’s Supervisors

The complaints involving Employee 25 engaging in sexual harassment and/or bullying of students while [REDACTED] was at [REDACTED] were primarily handled by [REDACTED] directors and/or associate superintendents. We are aware of three such complaints.

The first complaint was from a parent of a female student made in July 2017. That parent alleged that Employee 25 and a ██████████ ██████████ made inappropriate comments about the female student, including Employee 25 referring to her friend as a “whore.” The parent requested a Change of School Assignment (“COSA”) for their children, which was granted. That COSA file is no longer available, but the complaint was investigated by the Pupil Personnel Worker assigned to the case and the allegations against Employee 25 were not substantiated. Despite the fact that the complaint involved allegations of sexual harassment against a student, this complaint was not forwarded to DCI and/or the Title IX coordinator. As a result, there was no Title IX inquiry regarding this incident under ACF and ACF-RA. The COSA was not contained in Employee 25’s personnel file.¹²

The second complaint involved an allegation that Employee 25 and a ██████████ ██████████ used an improper restraint against a student in October 2017. Along with the State Department of Education, MCPS investigated that complaint and found that Employee 25 and the ██████████ used an improper restraint on the student. The issue was ultimately resolved with the parent and the student. Employee 25 was counseled and was required to attend training on the proper use of restraints. This incident was also not in Employee 25’s personnel file.

The last student-related complaint involved a January 31, 2018 assembly where Employee 25 made a reference to “hoes and thots.” This incident caused substantial concern for students, staff and parents in the ██████████ community. Parents complained to Employee 17 and Employee 26, who both investigated the issue and determined that Employee 25’s use of the terms during the assembly was inappropriate. Employee 25 was verbally counseled by Employee 17. Further, Employee 25 was required to implement an action plan to address the inappropriate comments, which included holding a town hall for the community to discuss the situation. This incident was not forwarded to DCI or the Title IX coordinator to investigate even though it involved alleged sexual harassment against students. As a result, there was no Title IX inquiry into this incident under ACF and ACF-RA. There was no documentation in Employee 25’s personnel file regarding this incident.

vi. DCI Formally Investigated Two Complaints Brought By Staff Against Employee 25, But It Failed To Formally Investigate Collateral Complaints Made By Witnesses To The Employee 32 Investigation

As discussed above, DCI did not formally investigate anonymous complaints against Employee 25. DCI does investigate complaints that it receives from non-anonymous complainants, including complaints involving students and staff. DCI received two such

¹² Employee 25’s personnel file did not contain any information about any complaints, including the three student related complaints. We located documents that were stored in the archives that contained some documentation of the three student-related incidents. There was no documentation in that archived file of any adverse action taken against Employee 25 in connection with the three incidents.

complaints from staff regarding Employee 25 in 2023. These two complaints were the only two formal and non-anonymous complaints by staff against Employee 25 since [REDACTED] became the Employee 25 Job Title in 2013. Generally, to begin a formal investigation of discrimination, harassment or bullying under ACA-RA, the complainant must complete a Form 230-39, contact the DCI directly by email or contact their principal or supervisor, if appropriate, who will refer the issue to DCI for review. Both Employee 32 and Employee 31 followed this process, which triggered the formal investigation procedure for both of their complaints.

a. The Employee 31 Investigation

On March 1, 2023, Employee 31 complained to DCI about retaliation and bullying by Employee 25 that occurred in 2022 (the “Employee 31 Investigation”). *See* Exhibit 8. Specifically, Employee 31 alleged that Employee 25 retaliated against [REDACTED] and engaged in bullying tactics after [REDACTED] recommended on-level [REDACTED] courses for certain students in the school. Employee 31 further alleged that Employee 25 attempted to remove [REDACTED] from [REDACTED] position and yelled at [REDACTED] in retaliation for [REDACTED] making this recommendation. Employee 6 investigated Employee 31’s complaint.

On April 4, 2023, Employee 6 issued a letter to Employee 31 informing [REDACTED] that [REDACTED] allegations did not meet the definition of retaliation and workplace bullying pursuant to applicable MCPS policies. *See* Exhibit 9. Employee 6 determined that Employee 31 did not engage in any protected activity that would trigger MCPS’ retaliation policy because [REDACTED] complaint related to a work-related dispute, not discrimination or harassment. Further, Employee 6 determined that the alleged yelling was not repeated and did not rise to the level of bullying. Employee 31 did not appeal that determination. As a result, the Employee 31 Complaint and the finding were not considered by anyone that interviewed and/or recommended Employee 25 for promotion. Employee 25 was also not informed of the complaint, per MCPS policy.

b. The Employee 32 Investigation

On February 3, 2023, Employee 32 complained to DCI that Employee 25 engaged in sexual harassment, bullying, and other misconduct. *See* Exhibit 7. Specifically, Employee 32 alleged that Employee 25 began harassing [REDACTED] when [REDACTED] sent a text message to [REDACTED] in June 2019 requesting that [REDACTED] meet [REDACTED] in a hotel room. Among other inappropriate comments, Employee 32 further alleged that Employee 25 told [REDACTED] that [REDACTED] should sell [REDACTED] pubic hair in 2019 or 2020 and that Employee 25 told [REDACTED] that they should have sex during a social gathering in September 2020. With respect to bullying, Employee 32 alleged that Employee 25 yelled at [REDACTED] and attempted to contact [REDACTED] several times. [REDACTED] claimed [REDACTED] received hang-up calls from the school that [REDACTED] believed were from Employee 25. Despite the fact that Employee 32’s complaint alleges sexual harassment, the Title IX coordinator was not involved in this investigation.

Employee 6 was assigned to investigate Employee 32’s complaint. Employee 6 interviewed nine witnesses, including Employee 32 and Employee 25, and reviewed several

documents in conducting the investigation. Upon collecting and analyzing all of the evidence in early June 2023, Employee 6 drafted [REDACTED] initial report. *See* Exhibit 10. That report was sent to Employee 23 on June 12, 2023.

In that report, Employee 6 found that there was a preponderance of the evidence to support that Employee 25 engaged in sexual harassment in violation of MCPS policy. Employee 6 based this finding, in part, on the fact that a witness confirmed that [REDACTED] witnessed Employee 25 state that [REDACTED] and Employee 32 should engage in sexual intercourse during the September 2020 social gathering. Further, another witness verified that [REDACTED] witnessed Employee 25 make a sexually suggestive statement to Employee 32. Also, Employee 25 admitted that [REDACTED] engaged in a conversation with Employee 32 and others about a female pubic wig. Lastly, another witness indicated that [REDACTED] has witnessed Employee 25 make sexualized comments to other staff members. Employee 6 also noted in [REDACTED] report that Employee 32's statement that [REDACTED] had to take leave to avoid Employee 25's behavior contributed to the finding that [REDACTED] was a victim of sexual harassment. Employee 6 also sought text messages between Employee 25 and Employee 32 from Employee 32 twice, but they were not provided. Text messages were not sought from Employee 25, nor did [REDACTED] offer to share them.

In the June 12, 2023 draft report, Employee 6 also found that there was no evidence to support that Employee 25 engaged in workplace bullying in violation of MCPS policy. In making that finding, Employee 6 noted that there was no evidence corroborating Employee 32's allegation that Employee 25 yelled at [REDACTED]

During their interviews with Employee 6, three witnesses raised additional complaints about sexual harassment and/or bullying by Employee 25 that they experienced. DCI told those witnesses that they could file separate complaints, but none of those witnesses filed formal complaints. Despite being on notice about those complaints, DCI did not initiate any investigation because those complaints were outside of the scope of Employee 32's complaint and those witnesses did not formally file separate complaints. DCI does not have a process for investigating separate complaints that are made by witnesses to an investigation.

On or about July 11, 2023, Employee 23 reviewed the June 12, 2023 draft and directed Employee 6 to change the finding substantiating sexual harassment to a finding of no sexual harassment. Apparently, Employee 23 was concerned about the failure of Employee 32 to provide the text messages [REDACTED] referenced (and which were requested) evidencing that Employee 25 asked [REDACTED] to meet [REDACTED] at a hotel, which made Employee 23 question whether Employee 25's conduct was consensual. Further, Employee 23 noted that there were inconsistencies between the witnesses' recollection of the alleged inappropriate statements made by Employee 25.

On July 12, 2023, Employee 6 provided [REDACTED] second draft of the Employee 32 Investigation report to Employee 23. *See* Exhibit 11. Pursuant to Employee 23 direction, the report reflected that there was insufficient evidence to support a finding of sexual harassment. That report did find that Employee 25 violated the MCPS Code of Conduct by failing to conduct [REDACTED] private life

activities in a manner that is not prejudicial to the effectiveness of an MCPS employee. The basis for that finding was Employee 25's intoxication during social events with staff and [REDACTED] comment to Employee 32 about engaging in sexual intercourse with [REDACTED] during a non-work event. In addition, the report found that Employee 25 engaged in rude and disrespectful conduct to others in violation of the MCPS Code of Conduct due to [REDACTED] admission that [REDACTED] engaged in a conversation about a pubic hair wig with staff members. Consistent with the June 12, 2023 draft, the revision did not find any violation of the workplace bullying policy.

Employee 28, received a copy of the June 12, 2023 draft from Employee 23 on July 6, 2023. However, Employee 28 did not review that version of the report. Employee 28 was sent the July 12, 2023 draft report on that same day and proceeded to edit that version of the report at various times until the report was finalized on July 21, 2023. Although Employee 28 provided edits and comments to the July 12, 2023 draft, [REDACTED] did not request that Employee 6 change the finding of no sexual harassment. In general, the Office of General Counsel reviews the legal sufficiency of DCI investigation reports, but does not change the findings unless there is no legal basis for the finding. The final investigation report was issued on July 21, 2023. *See* Exhibit 12.

After the final report was issued, Employee 23 recommended to Employee 1 that Employee 25 receive a letter of reprimand for [REDACTED] misconduct. That letter of reprimand was finalized on July 26, 2023. *See* Exhibit 13. The letter of reprimand was signed by Employee 25 on July 27, 2023. Employee 25 disputed the language of the letter reprimand, and a revised letter was issued on August 8, 2023 that did not include the word "pubic hair." *See* Exhibit 14. Importantly, both versions of the letter of reprimand failed to include the findings in the investigation report that Employee 25 violated the MCPS Code of Conduct with respect to the statement to Employee 32 that [REDACTED] should have sex with [REDACTED] that was also heard by a witness.

B. Prior To Employee 25's Promotion, Employee 21, Employee 14, Employee 5, Employee 13, And Employee 22 Knew About the Employee 32 Investigation; However, Employee 3 And The Board Were Not Aware Of It.

Several individuals were involved with the promotion of Employee 25 in some capacity, including the Appointments Committee,¹³ OHRD, OSSWB, [REDACTED], the [REDACTED] executive staff, and the Board. MCPS has no process in place to automatically identify and/or delay the promotion of a candidate for a position while an investigation of that candidate is pending. Despite this, all three of the individuals (Employee 14, Employee 5 and Employee 13) who interviewed Employee 25 and recommended [REDACTED] for the last round of interviews with Employee 3 and Employee 21 were aware of the Employee 32 Investigation. None of those three individuals notified Employee 3 about the investigation. Employee 25's Employee

¹³ The Appointments Committee is composed of the [REDACTED].

22 Job Title, Employee 22, did not formally interview Employee 25 for the promotion, but ■ did support ■ candidacy even though ■ was aware of the Employee 32 Investigation. See Exhibit 22.

Employee 21 knew about the Employee 32 Investigation and other concerns about Employee 25's reputation for engaging in unprofessional relationships prior to the promotion. Employee 21 did not notify Employee 3 specifically about the investigation but did notify ■ that ■ had concerns regarding Employee 25's conduct shortly before ■ recommended ■ for promotion. Employee 21 told Employee 3 that ■ concerns were resolved after Employee 25 assured ■ that ■ had not engaged in any misconduct. As a result, Employee 3 did not inform the Board about any issues regarding Employee 25 prior to the Board's vote and appointment of Employee 25 to Job Title.

Employee 3, Employee 21, Employee 14, Employee 5, Employee 13, and Employee 22 all had varying degrees of knowledge about concerns regarding Employee 25's conduct; however, none of them exercised reasonable diligence to ascertain details about those concerns.

i. Employee 25 Applied For Job Title Position And Participated In The Selection Process.

In late May 2023, Employee 25 applied for the open Job Title position. The Appointments Committee received ■ application, among other applications, and began the selection process. In summary, the selection process involves a series of interviews and approvals starting with the Appointments Committee and ending with the Board. In addition, candidates must meet the minimum qualifications as set forth by the hiring manager. MCPS does not have a process whereby written personnel information, including personnel files, are reviewed as part of the promotion selection process. As a result, Employee 25's personnel file was not reviewed as part of ■ promotion process. Employee 21 separately asked Employee 5 to review Employee 25's personnel file due to ■ concerns regarding the alleged misconduct; however, there was no adverse information in the personnel file.

On June 5, 2023, Employee 25 and other candidates were interviewed by a community panel, which included staff, students and parents from the ■ community. Employee 25 was selected as one of three finalists for the next round of interviews. On June 12, 2023, the three finalists were interviewed by Employee 5, Employee 14 and Employee 13 with Employee 24, facilitating the process. Following this interview, Employee 25 and an external candidate were selected to move on to the final stage of interviews to be interviewed by Employee 3 and Employee 21. Employee 3 and Employee 21 interviewed both candidates on June 14, 2023. Soon thereafter, Employee 21 and Employee 3 decided to recommend Employee 25 for the position. The Board voted to appoint Employee 25 on June 27, 2023.

ii. By Early June 2023, Employee 14, Employee 5, Employee 13, And Employee 22 Were All Informed About The Employee 32 Investigation And Did Not Inquire About the Details of the Investigation.

Employee 23 told several individuals involved with Employee 25's promotion about the Employee 32 Investigation, including Employee 14, Employee 5, Employee 13, Employee 1, and Employee 22. However, the details about what else Employee 23 told them about the investigation varies depending on the witness.

- Employee 25 said that, on June 1, 2023, Employee 23 told [REDACTED] that [REDACTED] would not be found responsible for sexual harassment or bullying; however, that [REDACTED] would be written up for being intoxicated with staff.
- Employee 5 said that, in early June 2023, Employee 23 told [REDACTED] that Employee 25 would not be found responsible for sexual harassment or bullying, but that there would be some written documentation for other findings of inappropriate conduct.
- Employee 13 said that Employee 5 told [REDACTED] that Employee 23 said that Employee 25 was being investigated but that the allegations were not substantiated and that Employee 25 would be cleared from the Employee 32 Investigation.
- Employee 14 said that, in early June 2023, Employee 23 told [REDACTED] that the allegations were not substantiated and that Employee 25 would be cleared from the Employee 32 Investigation.
- Employee 1 said that on June 5, 2023, Employee 23 told [REDACTED] and Employee 5 that Employee 25 was under investigation for sexual harassment and that [REDACTED] would receive a letter of reprimand, at a minimum.

Despite the different recollections of Employee 23's statements about the investigation, there is no dispute that Employee 23 told everyone that inquired there was, in fact, a pending investigation against Employee 25 before [REDACTED] was promoted. Three of the four people that [REDACTED] spoke to directly (Employee 5, Employee 1 and Employee 25) confirmed that Employee 23 told them that Employee 25's misconduct would be documented, in writing.

During the Employee 32 Investigation, Employee 23 spoke directly to Employee 22, Employee 25's direct supervisor at that time. Not only did Employee 23 inform Employee 22 of the Employee 32 Investigation, [REDACTED] was also interviewed as a witness in the investigation and drafted a written statement regarding Employee 25's conduct. Employee 23 also informed Employee 22 about the March 2023 Lighthouse complaint. Further, Employee 22 told the Investigators that [REDACTED] met with a [REDACTED] staff member in early 2023 about [REDACTED] allegations that Employee 25 pushed [REDACTED] too hard and spoke harshly to [REDACTED]. With knowledge of the investigation and other complaints regarding Employee 25's conduct, Employee 22 still supported Employee 25's appointment without seeking more information about those complaints. Employee

22 did not inform anyone involved with the promotion process of [REDACTED] knowledge about the Employee 32 Investigation or other complaints about Employee 25.

Employee 5, Employee 14 and Employee 13 were all preliminary decision makers in the promotion of Employee 25. *See* Exhibit 15. These three individuals ultimately recommended Employee 25 for the final interview with Employee 3 and Employee 21. None of those individuals requested more information from DCI about the pending investigation prior to recommending Employee 25 for that final round of interviews.

Employee 14, Employee 5 and Employee 13 all had separate responsibilities that would necessitate them inquiring further into the details of the investigation rather than just relying upon Employee 23's general statements. As the [REDACTED], Employee 14 was ultimately responsible for the Employee 32 Investigation. [REDACTED] also had direct access to the investigation file. Employee 14 did not review this investigation file, nor did [REDACTED] speak to Employee 6 who was conducting the investigation. As discussed above, there was a June 12, 2023 draft report that had a finding of sexual harassment and that contained significant other findings of misconduct by Employee 25 including several inappropriate comments and drinking with staff. *See* Exhibit 10. That report was available on the day that Employee 14 interviewed Employee 25. Employee 14 was not fully informed when making [REDACTED] recommendation for Employee 25 because [REDACTED] did not inquire further into the investigation that was being conducted by [REDACTED] subordinates.

As the Employee 13 Job Title is assigned to Employee 13. Employee 13 was Employee 25's prospective supervisor. As such, even if Employee 25 was cleared of any misconduct in the investigation, Employee 13 had an interest in knowing about the pending investigation and its allegations since Employee 25 would be reporting to [REDACTED]. Similarly, as Employee 5 Job Title, Employee 5 has an interest in ensuring that Employee 25 does not have allegations and complaints that followed [REDACTED] to [REDACTED]. Both Employee 13 and Employee 5 failed to take the necessary steps to obtain easily accessible details about the investigation.

iii. Employee 5 Expressed [REDACTED] Specific Concerns To Employee 21 About The Risks Of Promoting Employee 25. However, Employee 21 Still Supported The Promotion.

As the former Employee 5 Job Title and the current Employee 5 Job Title, Employee 5 had supervisory and oversight responsibilities over Employee 25 both while [REDACTED] was the Employee 25 Job Title and upon [REDACTED] appointment as the Employee 25 Job Title. Unlike Employee 14 and Employee 13, Employee 5 did take some affirmative steps to express [REDACTED] concerns about the risk of selecting Employee 25.

Employee 5 expressed those concerns directly to Employee 21. *See* Exhibit 17. Employee 5 told Employee 21 that [REDACTED] did not support Employee 25's promotion and that [REDACTED] preference was to select the external candidate. Employee 5 told Employee 21 that while there would not be a finding of sexual harassment from the Employee 32 Investigation, [REDACTED] was concerned about the

proximity of the pending investigation with the promotion. ■ told Employee 21 that there would be written documentation about Employee 25's non-sexual harassment related misconduct. ■ also told Employee 21 that Employee 25 was "messy" and that there were rumors that Employee 25 had a relationship with ■ secretary. ■ also shared that ■ had concerns about comments that Employee 25 has made to students and directly to ■. As a result of ■ concerns, Employee 5 also met privately with Employee 25 in mid-June 2023 to tell ■ that ■ would need to stop socializing with staff if ■ was selected to be the Job Title. Employee 5 had observed Employee 25 socialize with ■ staff and had direct experience with ■ making suggestive comments to ■. Employee 25 sent Employee 5 several flirtatious text messages in 2020 to 2022 that ■ did not object to at the time. Despite Employee 5's concerns, Employee 21 still supported Employee 25 for promotion.

iv. Employee 21 Did Not Tell Employee 3 About The Pending Employee 32 Investigation And Pending Discipline.

Employee 21 did not specifically recall whether ■ told Employee 3 that there was a pending investigation prior to the promotion. However, Employee 21 was concerned that the pending investigation into sexual harassment would impact the promotion. Employee 21 indicated that ■ was not concerned about the disposition of the non-sexual harassment allegations. Due to ■ concerns as well as Employee 5's, Employee 21 scheduled a meeting with Employee 25 on June 27, 2023 to discuss those concerns. Employee 5 attended that meeting. During that meeting Employee 21 warned Employee 25 about socializing with staff and requested ■ assurances that ■ was clear from any wrongdoing with respect to the Employee 32 Investigation and any past misconduct. Employee 25 assured Employee 21 that ■ had not engaged in any misconduct. Prior to the Board's vote on June 27, 2023, Employee 21 told Employee 3 about the meeting with Employee 25 and told ■ that Employee 25 was "clear" to be promoted.

In addition to meeting with Employee 25 on the day of ■ promotion, Employee 21 asked Employee 5 several times from early to late June to check the status of the investigation. Employee 21 also asked Employee 5 to review Employee 25's personnel file to ensure that there was no adverse information in it. Employee 5 reviewed the personnel file and verified that there was no evidence of misconduct.

v. Employee 3 Knew That Employee 25 Had A Reputation for Inappropriate Conduct And That There Was Something "Swirling Around" Employee 25 Prior To ■ Promotion.

Employee 3 was previously aware of Employee 25's reputation for engaging in inappropriate relationships with staff from ■ time as a Employee 3 Job Title in 2010-2015. For example, ■ heard that Employee 25's ■ called a female staff member at the school and told ■ to leave ■ alone. Despite this, Employee 3 indicated that ■ did not have any concern with ■ appointment on June 27, 2023 since that issue was several years prior.

Employee 3 consulted with Employee 21 prior to recommending Employee 25 for promotion. ■ indicated that Employee 5 supported the external candidate, which was notable for Employee 3 since internal candidates are usually preferred and Employee 5 was previously Employee 25's Employee 5 Job Title. When Employee 3 inquired as to why ■ supported the external candidate, Employee 21 indicated that Employee 5 liked the external candidate more, but did not mention that ■ was concerned about the Employee 32 Investigation.

According to Employee 3, on June 26, 2023, Employee 21 told ■ that ■ was going to check on Employee 25 because "Employee 25 was being Employee 25" and that something was "swirling around." Based on ■ knowledge of Employee 25's reputation, Employee 3 understood that Employee 21 was going to ensure that Employee 25 was "behaving like an adult and not being too comfortable with others." Employee 3 indicated that on June 27, 2023, Employee 21 told ■ that Employee 25 was "clear." Based on Employee 21's assurance, Employee 3 indicated that ■ was satisfied that there was no issue with Employee 25's background and proceeded to recommend Employee 25 for promotion to the Board that same day. Employee 3 said that Employee 21's description of ■ concerns as "Employee 25 being Employee 25" and that there was something "swirling around" were not specific enough for ■ to appreciate that there was a pending investigation. As a result, ■ did not make any further inquiries about what was "swirling around" once Employee 21 assured ■ that Employee 25 was "clear." Employee 3 said that if ■ knew that there was a pending investigation, ■ would not have recommended Employee 25 for promotion.

vi. The Board Did Not Know That There Were Any Issues With Employee 25 Prior To ■ Promotion.

No one told the Board that there were any issues with Employee 25 prior to the June 27, 2023 vote to approve the promotion. Each member of the Board verified that they were unaware of any issue with Employee 25 prior to the vote to appoint ■

C. Employee 3 Did Not Place Employee 25 On Administrative Leave And Did Not Notify The Board About Any Concerns About Employee 25 Until At Least Sixteen Days After Learning About The Investigation, Letter Of Reprimand And Washington Post Inquiries.

There was a lack of diligence by key members of MCPS leadership prior to Employee 25's promotion that resulted in Employee 25 being promoted while ■ was under investigation for sexual harassment and inappropriate conduct. There was a continued lack of diligence by key members of MCPS leadership after Employee 25 was promoted that resulted in ■ not being immediately removed from ■ position after those key leaders knew about the intended letter of reprimand for substantiated conduct. This lack of diligence also resulted in the Board not being timely notified about the letter of reprimand.

By July 18, 2023, Employee 3 became aware that the Washington Post made an MPIA request for Employee 25 personnel file¹⁴ and was requesting to talk to witnesses about Employee 25 engaging in workplace misconduct. As a result, Employee 3 requested that Employee 21, Employee 4, ██████████, and Employee 18, ██████████ determine specifically what the Washington Post was inquiring about. On July 19, 2023, Employee 3 met with Employee 21, Employee 11, Employee 4, and Employee 18. At that meeting, Employee 21 told Employee 3 that Employee 25 was under investigation and that ██████████ was going to receive a letter of reprimand for findings related to the Employee 32 Investigation. According to Employee 3, this was the first time that ██████████ appreciated that DCI was investigating Employee 25 during the promotion process. Yet, Employee 3 said that Employee 21 reminded ██████████ that ██████████ had checked-in with Employee 25 during the promotion process and told ██████████ that ██████████ was “clear.” It is unclear what Employee 3 thought Employee 25 was cleared from when Employee 21 told ██████████ ██████████ was “clear” on June 27, 2023.

According to Employee 21, ██████████ first learned that Employee 25 was going to receive a letter of reprimand from Employee 5 at some point shortly before the July 19, 2023 meeting. On July 20, 2023, Employee 21, Employee 5, Employee 1, Employee 4 and Employee 23 met to discuss the Employee 32 Investigation. During that meeting, Employee 21 wanted to know why ██████████ was not specifically told that Employee 25 was receiving a letter of reprimand. When we interviewed the attendees of that meeting, they each gave different accounts of what was said about Employee 5 knowing about the letter of reprimand before the promotion. Despite the different accounts of that meeting, Employee 5 admitted that, prior to the promotion, ██████████ was told by Employee 23 that Employee 25’s non-sexual harassment related misconduct was going to be documented, in writing. Employee 21 admitted that Employee 5 told ██████████ about some form of written documentation for the non-sexual harassment related misconduct prior to Employee 25’s promotion. Employee 23 and Employee 1 also recalled having a conversation with Employee 5 where ██████████ was informed that Employee 25 was going to be receiving documentation. It is not clear whether Employee 23 informed Employee 5 that the written documentation would be in the form of a letter of reprimand. Employee 5 did not specifically convey to Employee 21 that Employee 25 would receive a letter of reprimand. However, whether Employee 25 would receive a letter of reprimand or some other type of written documentation is an issue about form over substance. Employee 21 had enough information before the promotion to be on notice that Employee 25 was going to receive written discipline for misconduct.

Employee 3, Employee 21, Employee 13, and Employee 5 all indicated that they would not have supported Employee 25 for promotion if they had known about the letter of reprimand prior to the promotion. Once those individuals became aware of both the investigation and the letter of reprimand by July 19, 2023, they did not take any immediate action to remove Employee 25 from ██████████ new position. Employee 25 was not placed on administrative leave until August 4,

¹⁴ The Washington Post made a subsequent MPIA request on July 19, 2023 for contracts involving Employee 25, which was received by Employee 11.

2023 due to specific allegations raised by the Washington Post in early August 2023 and the imminent media coverage of the issue, and not due to the letter of reprimand. There is no evidence that this delay was due to any attempt to conceal Employee 25's misconduct.

Employee 3 further stated that if [REDACTED] knew about findings in the letter of reprimand on July 19, 2023, [REDACTED] would have placed Employee 25 on administrative leave on that date. However, Employee 3 did not request the letter of reprimand, which was finalized on July 26, 2023,¹⁵ until August 10, 2023. [REDACTED] also never reviewed the July 21, 2023 investigation report.

On July 20, 2023, the Board had its meeting which Employee 3, Employee 21, Employee 5 and Employee 13 attended. Employee 3 did not inform the Board about the Employee 32 Investigation, the letter of reprimand or the Washington Post inquiries at that Board meeting. The Board was not made aware of any issues with Employee 25 until on or about August 4, 2023 in connection with detailed inquiries from the Washington Post regarding allegations against Employee 25. On that same day, Employee 25 was placed on administrative leave. There is no evidence that the failure to notify the Board at the July 20, 2023 meeting about the newly discovered issues relating to Employee 25 was due to any attempt to conceal this information from the Board.


A few hours after the July 20, 2023 Board meeting, Employee 21, Employee 5, Employee 13 and Employee 11 received the Maryland Tip Line Complaint discussed above. As discussed previously, that July 20, 2023 anonymous complaint alleged that Employee 25 was having an inappropriate relationship with two staff members, who were specifically identified in the complaint, and that [REDACTED] had been seen intoxicated with staff members several times. Employee 21 told Employee 3 about the Tip Line Complaint shortly after receiving it. Employee 3 and Employee 21 did not attempt to notify the Board about this Tip Line complaint after the July 20, 2023 Board meeting.

VI. Conclusion

Simply put, Employee 25 was promoted while the investigation was pending because key decision-makers did not exercise enough diligence to ascertain important details about the investigation. That failure is not as troubling as the failure of these key MCPS leaders to correct the mistake once those details were known after the promotion and to promptly notify the Board about the issue.

There is no evidence that anyone involved with Employee 25's promotion attempted to conceal any complaints against Employee 25. MCPS has long-standing practices and processes in place that resulted in some of the complaints against Employee 25 not being formally investigated. Except for the altering of the Employee 32 Investigation timeline by Employee 23,

¹⁵ The July 26, 2023 letter of reprimand was revised and reissued on August 8, 2023.



which had no impact on the promotion, no one involved with Employee 25's promotion violated any MCPS policy or engaged in any intentional misconduct.

It is important to note that this investigation team had the benefit of knowing all of the information while we scrutinized a process with many variables and decisions that were made without the benefit of all of the information. This investigation presents an opportunity for the Board to remind MCPS leadership to be diligent and to ensure that appropriate processes are in place so this type of issue does not happen again. Every member of MCPS leadership that we interviewed expressed genuine remorse, accountability and indicated that they have learned from this situation.

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