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1000 Key Tower
127 Public Square
Cleveland, OH 44114

Emily R. Spivack
T +1 216-479-8001
emily.spivack@squirepb.com

To: Willoughby-Eastlake City School District Board of Education

From: Emily R. Spivack, Esq.

Date: September 6, 2022

Re: Investigation into Potential Data Breach and Retaliation

The Willoughby-Eastlake City School District (“Willoughby-Eastlake” or the “District”) Board of Education (the “Board”) asked Squire Patton Boggs (“Squire”) to conduct a neutral investigation into possible violations of Board policies regarding access to data and harassment/retaliation. Squire has interviewed the relevant parties and witnesses, and reviewed documents and other evidence provided by those parties and witnesses. Copies of these supplemental documents are enclosed. The following is a report of Squire’s investigation.

I. Relevant Parties

- Catharine Beal: Ms. Beal is the District’s director of communications.
- William Boxler: Mr. Boxler is a member of the Board.
- Steven Thompson: Dr. Thompson was the District’s superintendent at all times relevant to this investigation.

II. Introduction

In early April 2022, Ms. Beal and Dr. Thompson raised concerns that Mr. Boxler had access to their passwords for various work and/or personal accounts, and that Mr. Boxler had accessed some of those accounts without permission. Mr. Boxler acknowledged that he had encountered some of Ms. Beal’s and Dr. Thompson’s passwords via his access to the District levy campaign’s email account. He also acknowledged that he accessed Ms. Beal’s PowerSchool account and attempted to access the levy committee Facebook account using those passwords. The Board asked Squire to review whether these events violated Board policies regarding access to District information and accounts. Ms. Beal and Dr. Thompson

further alleged retaliation by the Board between April 2022 and the start of Squire's investigation, which is also addressed herein.

III. Summary of Investigation

A. Evidence Considered

Squire considered the following evidence as part of this investigation:

- Interviews with the following individuals, summaries of which are included as the exhibits referenced here:
 - Ms. Beal (Exhibit A);
 - Mr. Boxler (Exhibit B);
 - Dr. Thompson (Exhibit C);
 - Andrea Tredent (Exhibit D); and
 - Krista Bair (Exhibit E).
- May 11, 2022 Eastlake Police report (Exhibit F);
- Ms. Beal's timeline and associated records (Exhibit G);
- Ms. Beal's PowerSchool login history (Exhibit H);
- Login history for Boxler PowerSchool accounts (Exhibit I);
- July 27, 2022 Email from Ms. Beal (Exhibit J);
- August 8, 2022 Email from Ms. Tredent (Exhibit K);
- August 18, 2022 Email from Mr. Boxler (Exhibit L);
- Mr. Boxler's supplemental materials (Exhibit M);
- August 23, 2022 Email from Sue Costello (Exhibit N);
- May-June 2022 Emails provided by Ms. Bair (Exhibit O);
- May 19, 2022 Letter from Dr. Thompson to Ms. Beal (Exhibit P); and
- September 5, 2022 Email on behalf of Ms. Bair (Exhibit Q).

All page references in this report are to the Bates numbers on the exhibits.

B. Background

Ms. Beal is the District's director of communications and is hired through the Educational Service Center ("ESC"). She has worked for the District since 1986. Her husband, Thomas Beal, was a Board member from January 1, 2018 through December 31, 2021, and served as Board president for part of that time. Dr. Beal ran for the Board against Mr. Boxler in November 2017 and November 2021. Ms. Beal indicated Mr. Boxler had been a vocal critic of the Board during her husband's time as president, and provided screenshots of sample Facebook postings from Mr. Boxler questioning the fact that a then-Board member (Dr. Beal), was married to one of the superintendent's direct reports. (Ex. J, p. 67).

Mr. Boxler is a computer consultant and owns a company that teaches seniors how to use computers. He also manages social media accounts for senior living facilities. Mr. Boxler began working in sales and customer service after high school and has been in that field for the majority of his career. He began doing computer programming online in the 1990s. Mr. Boxler was first elected to the Board in November 2021 and took office in January 2022. This is his first term on the Board. He previously ran for a Board seat in November 2017 and was not elected at that time. Mr. Boxler ran against Dr. Beal in both of his campaigns. Mr. Boxler indicated he was publicly critical of Dr. Beal during Dr. Beal's time on the Board, and that Mr. Boxler also publicly questioned the appropriateness of Ms. Beal's being employed by the Board during her husband's tenure. Mr. Boxler explained he was concerned there was a conflict of interest because Ms. Beal reported directly to the superintendent, who in turn reported directly to the Board. Mr. Boxler confirmed he had authored a Facebook post provided to Squire by Ms. Beal on that issue and indicated that post was from the 2019 Board election when neither Dr. Beal nor Mr. Boxler was a candidate.

Dr. Thompson joined the District in 2011 and was superintendent there through August 22, 2022. He accepted a position with the Akron City School District to become its chief operations officer, and he began that position on August 23. Dr. Thompson has known Ms. Beal since he arrived in the District. Dr. Thompson has known Mr. Boxler since approximately 2013 or 2014 when Mr. Boxler provided assistance for a District levy campaign. Dr. Thompson said he spoke with Mr. Boxler occasionally at community events but did not work directly with him until Mr. Boxler was elected to the Board in November 2021.

C. Overview of Allegations and Investigation¹

1. Account Access

Beginning in 2012, Ms. Beal had volunteered to run District levy campaigns. She stepped back from that role in October 2021. As part of transitioning out of this role, Ms. Beal turned over login information for the levy campaign email and social media

¹ Unless otherwise indicated, Squire relies on Exhibits A through E to support the assertions in this section.

accounts to Mr. Boxler and two other individuals who were taking over the levy work. (Ex. F, p. 26). Ms. Beal provided the three individuals with this information because she was directed to do so. (Ex. F, p. 26).

Mr. Boxler said that around April 5, he began working on the levy campaign website. Mr. Boxler explained that he maintains separate Google accounts for his work for each of his clients, and for each, only saves the passwords related to that account in his browser for that account. He set up such an account for the levy campaign on April 6. He logged into the levy campaign email account and then, in a separate tab but the same browser, went to Weebly, which hosts the levy campaign's website. During his initial interview with Squire, Mr. Boxler said when he went to Weebly, while logged into the levy email account in the background, his browser auto-filled the login email and password for Weebly for the levy campaign website. In a subsequent email to Squire, Mr. Boxler indicated it had been Facebook that attempted to autofill a password. (Ex. L). Regardless of which site it was initially, Mr. Boxler said that caught him off-guard and he wondered how his computer would have known to auto-fill that information. Mr. Boxler said the auto-fill caused him to look at his browser settings, where he found numerous other passwords stored for various sites, most tied to either Ms. Beal's or Dr. Thompson's email addresses.

On April 5, 2022, Ms. Beal received a notification from Gmail that her personal account had been accessed by a Windows device. (Ex. G, p. 46, 48). Ms. Beal indicated she and her immediate family use only Apple devices, but that she did ask her husband and [REDACTED] if any of them had accessed her account. They told her they had not. Ms. Beal did not have information about the IP address that accessed her personal Gmail account because she was unaware of how to obtain that information until several days later, by which time Gmail no longer allowed Ms. Beal, as the user, to directly access the login record back to April 5. (Ex. G, p. 49). Ms. Beal stated that Gmail shows the user the last 10 logins to their account, but will not go back further without a court order.

On April 6, shortly before 7 p.m., Mr. Boxler went to the saved password list in the levy email account and clicked on the link to PowerSchool², logging in through Ms. Beal's account. He said he visited one page on that site and immediately clicked to a different tab outside of PowerSchool. He said he did not recall logging out of PowerSchool. PowerSchool's records reflect that he visited seven unique pages in Ms. Beal's PowerSchool account. Mr. Boxler said he did not recall which pages he visited during that session. He said any page visits beyond the home page would have been unintentional.

Mr. Boxler said when he realized he could access Ms. Beal's PowerSchool account, he called Board President Krista Bair to notify her of the issue. Ms. Bair confirmed Mr. Boxler called her and that she directed him to contact Dr. Thompson. Ms. Bair indicated she was not aware at that time that Mr. Boxler had actually accessed any of Ms. Beal's accounts, only that he could see some of her passwords and some of Dr. Thompson's passwords.

² PowerSchool is the District's student information system. It houses student demographic and contact information, grades, etc. It does not contain any social security numbers, nor is any credit card information stored in the PowerSchool system. (Ex. N).

Shortly after 7 p.m. on April 6, Mr. Boxler called Dr. Thompson. During this call, Mr. Boxler read one of Dr. Thompson's passwords to him and asked if he recognized it. Mr. Boxler indicated he intended this to be a light-hearted way to address the issue. Dr. Thompson said he took Mr. Boxler's reading his password as a threat. Mr. Boxler then explained to Dr. Thompson that Mr. Boxler had found numerous passwords and logins for Ms. Beal and Dr. Thompson stored in the levy campaign email account. Dr. Thompson told Mr. Boxler he would have the District's technology director reach out to Mr. Boxler because Dr. Thompson did not completely understand the issue.

Dr. Thompson called Andrea Tredent, the District's technology director, just before 7:10 p.m. on April 6. Dr. Thompson told Ms. Tredent during that phone call that Mr. Boxler had called Dr. Thompson about some of his passwords but that Dr. Thompson did not fully understand the issue and asked Ms. Tredent to follow up with Mr. Boxler.

Dr. Thompson then called Ms. Beal and told her he had just spoken with Mr. Boxler, and that Mr. Boxler had asked Dr. Thompson about one of Dr. Thompson's passwords. Ms. Beal said Dr. Thompson was alarmed and asked how Mr. Boxler could have gotten Dr. Thompson's password. Ms. Beal told Dr. Thompson she did not know how that could have happened. Dr. Thompson also told Ms. Beal that Mr. Boxler said he was able to see passwords and login information belonging to Dr. Thompson. Ms. Beal immediately called Ms. Tredent to express concern about the security of District accounts.

Ms. Tredent called Mr. Boxler a little before 7:30 p.m. on April 6. Mr. Boxler explained to Ms. Tredent how he had come upon the passwords. Ms. Tredent asked Mr. Boxler to delete the passwords from his computer and he told her he had already done so. However, Mr. Boxler did attempt to access the levy campaign's Facebook page after his call with Ms. Tredent, and used one of Ms. Beal's saved passwords to do so. Ms. Beal got two notifications that someone was attempting to access the District's Facebook accounts. Ms. Beal denied the access and Mr. Boxler confirmed he was not able to log into the Facebook account. Ms. Beal indicated the IP address that attempted to access the District's Facebook accounts was the same IP address that accessed Ms. Beal's PowerSchool account.

About 20 minutes after her conversation with Mr. Boxler, Ms. Tredent spoke again by phone with Ms. Beal. She advised Ms. Beal to change her passwords and to tell Dr. Thompson to do the same.

In cases of suspected breaches, Ms. Tredent first checks District Google accounts, then school messenger accounts, then PowerSchool. These are the primary points of access to District and student information. When Ms. Tredent got to work on April 7, she checked Dr. Thompson's and Ms. Beal's District Google accounts for any unusual activity, especially logins from unusual IP addresses. She found no unusual activity on those accounts. Ms. Tredent also confirmed there was no unusual activity in Dr. Thompson's or Ms. Beal's messenger accounts.

Ms. Tredent then asked a member of her staff, Sue Costello, to pull PowerSchool login information for Dr. Thompson's and Ms. Beal's accounts. Ms. Costello is one of the

District's PowerSchool administrators. The PowerSchool reports showed no unusual activity on Dr. Thompson's account. On Ms. Beal's account, there was one IP address that had not been used previously to access her account. (Ex. H). Ms. Tredent cross-referenced that IP address with other logins the District issued and determined the only other accounts accessed from that IP address belonged to the Boxler household. (Ex. I). The log-in to Ms. Beal's account occurred at 6:53 p.m. on April 6 and lasted approximately 41 minutes. (Ex. H). PowerSchool automatically logs a user out after 40 minutes of being idle. (Ex. K). The PowerSchool report indicated the user visited seven pages during that 41-minute session, but the system was unable to report which specific pages were visited. (Ex. H). Ms. Tredent and her team did confirm no changes were made to student information during that session. (Ex. K). Ms. Costello changed Dr. Thompson's and Ms. Beal's PowerSchool credentials by 8:30 a.m. on April 7.

Ms. Beal said she stored approximately 108 passwords on her personal Gmail account. She said it was entirely possible that some of Dr. Thompson's passwords would be on her computer as well, because he occasionally logs into her machine while they are working together. Of the 108 saved passwords, Ms. Beal is aware of attempts to access three accounts: (1) successful login to her personal Gmail account, (2) successful login to her PowerSchool account and (3) attempted login to the District's Facebook account. She is aware of those access attempts because she received specific notifications from her accounts. While Ms. Beal does not have specific knowledge of any further breach, she is concerned some of her other accounts may have been accessed given the time it took for her to become aware that her passwords had been accessed.

In addition to concerns about her personal information and the personal information of members of her family, Ms. Beal indicated she is concerned that personally identifiable student information may have been improperly accessed. In particular, Ms. Beal cited the PowerSchool access as problematic because of the direct access to student information in that system. She said had someone been able to get into the District's Facebook account, they may also have found student information in private direct messages there, as sometimes parents will contact the District through Facebook and share protected student information there.

2. Retaliation

Ms. Beal also indicated she believes she has suffered retaliation since she raised concerns about Mr. Boxler's access to her accounts in April 2022. At one point in May, Ms. Beal said a message needed to go out about a Board meeting and Ms. Bair wanted to preview it. Ms. Beal printed it and gave it to Dr. Thompson, who gave it to Ms. Bair. Ms. Bair read and approved it and the statement was released, but there was a typo in it. Ms. Beal said she immediately sent a retraction and correction with an apology. She said Ms. Bair then reached out to Dr. Thompson and asked how the mistake was made and referred to the person making the mistake as incompetent. Ms. Bair also explained to Dr. Thompson that this was not the message she had read and approved.

Ms. Bair's account differs from Ms. Beal's. She indicated she happened to be meeting with Dr. Thompson and Board member Stacy Menser one day in May and Dr. Thompson asked the two Board members to review a message that was going to be released. Ms. Bair said she and Ms. Menser reviewed it and approved it, but that the message that ultimately went out that day or the next had a typo that was not in the version they approved. She confirmed she then emailed Dr. Thompson to say the District could not afford mistakes in communications to the community, especially given that the District's levy had recently failed. Ms. Bair, through Board counsel, supplied the email thread between her and Dr. Thompson, which acknowledged that mistakes happen, but said, "we are under a microscope and small errors like this will erode trust and demonstrates incompetence." She went on to ask about the editing protocol for such messages and who is ultimately responsible for sending the messages out. (Ex. O, pp. 89-90). Dr. Thompson responded to Ms. Bair that the version she approved is what was sent, and shared a screenshot of a computer document. Ms. Bair said she never reviewed the file on the computer and did not believe the screenshot Dr. Thompson shared accurately reflected what she and Ms. Menser approved.

After that, Ms. Beal said the Board questioned her contract and removed the ESC contract that included Ms. Beal from the Board agenda. That contract, including the portion covering Ms. Beal's employment, was later approved on the June Board agenda, but without Ms. Beal's name specified. Ms. Beal said other employees who, like her, were hired through the ESC, had their names listed in that resolution. Ms. Beal said the Board has also questioned the value of her position since April 2022, but clarified that there has been no change to her pay or benefits since she raised concerns about access to her accounts in April.

Mr. Boxler denied ever taking action as a Board member on a contract involving Ms. Beal. He said to the best of his recollection, resolutions regarding the ESC were tabled because the Board was trying to better understand the District's plan to move from one ESC to another. Mr. Boxler denied that any Board action in June related to Ms. Beal's contract.

Dr. Thompson and Ms. Bair confirmed that Ms. Beal's contract was never on the Board agenda in 2022. Dr. Thompson explained that the ESC sends a list of employees assigned to the District with each annual ESC renewal contract. Ms. Beal was on that list because she is assigned to the District through the ESC, but her contract was not expiring. Ms. Bair said both she and another Board member found that confusing, because the ESC resolution listed employees whose contracts were not up for renewal. Ms. Bair confirmed she asked Dr. Thompson to make some changes to the agenda, including modifying one employee's outdated job title. Ms. Bair provided the email she sent Dr. Thompson questioning the need for another ESC-provided position. (Ex. O, pp. 86-87). According to Ms. Bair, Dr. Thompson indicated Ms. Beal was included in the resolution in error and Dr. Thompson removed her name of his own accord.

Ms. Bair said the Board also asked the ESC for a salary study of Ms. Beal's position because members wanted to understand if her pay was consistent with market rates. (See

Ex. O, pp. 92-96). Ms. Bair said the Board did not do similar studies for other ESC staff assigned to the District because the other ESC positions' roles were shifting and it would not have been appropriate to do a study until their titles and roles were finalized. The Board did not make any change to Ms. Beal's salary.

Through Board counsel, Ms. Bair also provided a May 19, 2022 letter Dr. Thompson sent to Ms. Beal informing her of the District's anti-harassment policies and encouraging her to file a complaint under those policies if she believed she was experiencing harassment as a result of Mr. Boxler's accessing her accounts. (Ex. P). As far as Squire is aware, Ms. Beal never filed such a complaint.

Finally, Dr. Thompson alleged Mr. Boxler retaliated against Dr. Thompson by threatening to give him a poor evaluation and/or not renew his contract as a result of Ms. Beal's complaint. Dr. Thompson alleged this conversation took place during Summer 2022.

Relevant Board Policies³

Policy 0122.1 – Member Powers

Board members as individuals do not separately possess the powers that reside in the Board of Education, except when and as expressly authorized by law or this Board . . .

Policy 0123 – Code of Ethics/Code of Conduct

The Board of Education believes quality public education and good Board service should be conducted in an ethical manner with traditional principles such as honesty, trust, fairness, and integrity. Each Board member should conform his/her conduct to Ohio law, the code of ethics recommended by the Ohio School Boards Association and the code of conduct set forth below[.]

* * *

While serving as a member of the Board of Education, each member is expected to agree to abide by the following code of ethics promulgated by the Ohio School Boards Association . . . (C) respect the confidentiality of privileged information;

* * *

Policy 0149 – Access to Records

. . . Access to District personnel and student records shall be subject to Board policies and applicable State and Federal law . . .

³ Although only excerpts from the Relevant Policies are included in this memorandum, the full text of each Relevant Policy is incorporated herein by reference.

Policy 1411 – Whistleblower Protection

The Board of Education expects all its employees to be honest and ethical in their conduct, and to comply with applicable State and Federal law, Board policies and administrative guidelines. The Board encourages staff to report possible violations of these Board expectations to their immediate supervisors.

It is the responsibility of an employee who is aware of conduct on the part of any Board member or employee that possibly violates Federal or State law, or Board policy, to call this conduct to the attention of his/her immediate supervisor. . . .

After such a report is made, the immediate supervisor will ask that employee's report be put in writing. Any employee making such a report shall be protected from discipline, retaliation, or reprisal for making such report as long as the employee made a reasonable and good faith effort to determine the accuracy of any information reported. Employees are subject to disciplinary action, up to and including termination, for purposely, knowingly, or recklessly making a false report under this policy. Conversely, employees are subject to disciplinary action, up to and including termination, if they are aware of a violation of Federal, State, or local law that the Board has the authority to correct and they do not make a report confirmed in writing to their immediate supervisor.

* * *

Policy 1662- Anti-Harassment

It is the policy of the Board of Education to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and gender identity), disability, age, religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as "unlawful harassment"), and encourages those within the School District community as well as Third Parties, who feel aggrieved to seek assistance to rectify such problems.

* * *

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members,

agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

* * *

“Harassment” means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that: (A) places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property; (B) has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or an employee's work performance; or (C) has the effect of substantially disrupting the orderly operation of a school.

* * *

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Policy 7540.01 – Technology Privacy

The Board of Education recognizes its staff members' right to privacy in their personal lives. This policy serves to inform staff members of the Board's position with respect to staff-member privacy in the educational and workplace setting and to protect the Board's interests.

All District Technology Resources (as defined in Bylaw 0100) are the Board's property and are intended to be used for business purposes. The Board retains the right to access and review all Information Resources (as defined in Bylaw 0100), including but not limited to electronic and voice mail, computer files, databases, and any other electronic transmissions contained in or used in conjunction with the Board's computer system/network, telephone system, electronic mail system, and voice mail system. Staff members shall be notified that they have no expectation that any personal information/data maintained, stored, or transmitted on or through such systems is confidential or private.

Review of such information may be done by the Board with or without the staff member's knowledge. The use of passwords does not guarantee confidentiality, and the Board retains the right to access information in spite of a password. A staff

member's refusal to permit such access may be grounds for discipline up to and including discharge.

* * *

District Technology Resources must be used properly. Review of computer files, electronic mail, and voice mail will only be done in the ordinary course of business and will be motivated by a legitimate business reason. If a staff member's personal information is discovered, the contents of such discovery will not be reviewed by the Board, except to the extent necessary to determine if the files/e-mail/voice mail constitute a public record or if the Board's interests have been compromised. Any information discovered will be limited to those who have a specific need to know that information.

* * *

Policy 8305 – Information Security

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Protecting District Information Resources (as defined in Bylaw 0100) is of paramount importance. Information security requires everyone's active participation to keep the District's data/information secure. This includes Board of Education members, staff members/employees, students, parents, contractors/vendors, and visitors who use District Technology Resources (as defined in Bylaw 0100) and Information Resources.

Individuals who are granted access to data/information collected and retained by the District must follow established procedures so that the information is protected and preserved. Board members, administrators, and all District staff members, as well as contractors, vendors, and their employees, granted access to data/information retained by the District are required to certify annually that they shall comply with the established information security protocols pertaining to District data/information.

* * *

Policy 8330 – Student Records

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Student records shall be available only to students and their parents, eligible students, designated school officials who have a legitimate educational interest in the information, or to other individuals or organizations as permitted by law.

* * *

“Legitimate educational interest” is defined as a “direct or delegated responsibility for helping the student achieve one (1) or more of the educational goals of the District” or if the record is necessary in order for the school official to perform an administrative, supervisory, or instructional task or to perform a service or benefit for the student or the student's family. The Board directs that reasonable and appropriate methods (including but not limited to physical and/or technological access controls) are utilized to control access to student records and to make certain that school officials obtain access to only those education records in which they have legitimate educational interest.

* * *

The Board shall maintain a record of each request for access and each disclosure of personally identifiable information. Such disclosure records will indicate the student, person viewing the record, their legitimate interest in the information, information disclosed, date of disclosure, and date parental/eligible student consent was obtained (if required).

Policy 8351 – Security Breach of Confidential Databases

* * *

A “security breach” means the unauthorized access to and acquisition of computerized data that compromises the security or confidentiality of personal information owned or licensed by the District and that:

- A. causes a material risk of identity theft or other fraud to the person or property of a resident of the State;
- B. reasonably is believed to have caused a material risk of identity theft or other fraud to the person or property of a resident of the State; or
- C. reasonably is believed will cause a material risk of identity theft or other fraud to the person or property of a resident of the State.

Unauthorized access of information will not be considered a security breach if:

- A. the employee or agent acted in good faith in accessing the data;
- B. the access was related to the activities of the District or the employee's or agent's job-related duties; and
- C. the employee or agent did not use the personal information for an unlawful purpose or subject the information to further unauthorized disclosure.

* * *

If an employee suspects, discovers and/or determines that a security breach has occurred, the employee shall promptly notify his/her immediate supervisor and the Superintendent, in writing.

The Superintendent shall determine and implement the steps necessary to correct the unauthorized access and requirements for notifying those individuals whose personal information may have been compromised.

Administrative Guideline 8351 – Security Breach of Confidential Databases

Investigation of Security Breach

Upon receiving notification of a security breach of one of the District's databases, the Superintendent shall:

- A. determine how the breach occurred;
- B. take immediate steps to correct and stop further unauthorized access; and
- C. determine whether notification is required to be provided to any individuals whose personal information may have been subject to unauthorized access.

Notification of Security Breach to Affected Individuals

Notification is not required, but may be done, when there is a determination, based on a reasonable review of all the facts, that the security breach has not caused or is not likely to result in a material risk of identity theft or other fraud or result in substantial loss or injury to the individuals who are affected by the security breach. In making this determination, the Superintendent shall consider, at a minimum, whether the information accessed by an authorized individual was:

- A. unencrypted and unredacted personal information;
- B. encrypted but accessed by a person with access to the encryption code.

If the Superintendent determines that notice should be given, it shall be provided in the most expedient time possible, but not later than forty-five (45) days of the discovery of the breach.

* * *

Factual Findings and Analysis

Based on our review of the evidence described above, Squire makes the following findings of fact:

- Ms. Beal inadvertently saved numerous passwords and logins in the levy campaign email account. Ms. Beal credibly denied any knowledge or

understanding of how passwords are saved across email accounts prior to April 6, 2022, and Ms. Tredent and Mr. Boxler both indicated it is not unusual for people to be ignorant of that issue. Ms. Beal's practice of saving passwords, while not ideal, did not violate any Board policies. The District has since implemented multi-factor authentication for District accounts, and Ms. Tredent provided Ms. Beal with assistance and information regarding best practices for password maintenance. Squire does not believe any further corrective action is necessary to address this finding.

- Ms. Beal provided Mr. Boxler with the login information for the levy campaign email account. Mr. Boxler received these credentials because he was serving on the levy committee. Mr. Boxler used the credentials he received to log into the levy campaign email account. There was no violation of Board policy with regard to Ms. Beal's sharing the levy email account login information with Mr. Boxler, nor with Mr. Boxler's accessing that account.⁴
- Mr. Boxler identified the issue regarding Ms. Beal's and Dr. Thompson's saved passwords after he logged into the levy campaign email account and, while still logged in there, attempted to log into either Weebly or Facebook to work on the levy campaign website. For the purposes of this investigation, it does not matter whether this login was to Weebly or Facebook. Mr. Boxler credibly indicated that his browser auto-filled the login information that was saved in the levy email account. Ms. Tredent confirmed that was what she assumed had happened and that it would be a natural thing to occur if there were passwords saved in the levy email account. Mr. Boxler then went into his browser settings and confirmed there were passwords saved under both Ms. Beal's and Dr. Thompson's email addresses. There is no violation of Board policy with regard to how Mr. Boxler identified that there were passwords saved in the levy email account.
- After identifying that Ms. Beal's and Dr. Thompson's passwords were saved in the levy campaign email account, Mr. Boxler used Ms. Beal's credentials to log into PowerSchool. Mr. Boxler claimed he only visited one PowerSchool page while logged into Ms. Beal's account. This is not credible given the PowerSchool record showing Mr. Boxler's IP address accessed seven pages while logged into Ms. Beal's account. Mr. Boxler's accessing PowerSchool through Ms. Beal's login without her permission violates Board Policies 0149, 7540.01 and 8330.

Board Policies 0149 and 8330 require that student records be accessed only as permitted by federal and state law. Both federal law (the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S. Code § 1232g) and state law (R.C. 3319.321) permit only those school officials/employees with a "legitimate

⁴ Mr. Boxler raised several questions during his interview with Squire about the interaction between the District's levy committee and District employees and Board members. This is outside the scope of Squire's investigation. Squire recommends the Board consult with legal counsel regarding these concerns.

educational interest” in student records to view those records. Mr. Boxler has not argued he had any legitimate educational interest in any of the records he viewed in Ms. Beal’s PowerSchool account; in fact, he has not disclosed which records he did view. Absent clear evidence that Mr. Boxler had a legitimate reason to view records in Ms. Beal’s PowerSchool account, his doing so violated Policies 0149 and 8330. FERPA requires schools to place a log in students’ files noting any time the file is accessed, who accessed it and when. In this case, the District does not know which files were accessed, or even that the 7 pages Mr. Boxler visited held student records. Thus, the District must determine whether it will place a note regarding potential unauthorized access in every student’s file, or whether it will forego the notice because it cannot confirm any student files were accessed. Squire advises the District consult with legal counsel regarding these options.

Policy 7540.01 says that reviews of employee accounts will only be “done in the ordinary course of business and will be motivated by a legitimate business reason.” Mr. Boxler was not acting in the ordinary course of business, nor did he have a legitimate business reason to access Ms. Beal’s PowerSchool account. Further, to the extent Policy 7540.01 grants the Board the power to access employees’ accounts, that grant of power is to the Board as an entity. Policy 0122.1 makes clear no individual Board member has the powers granted to the Board as a whole. Absent explicit action and approval by the Board, Mr. Boxler lacked any authority to enter Ms. Beal’s PowerSchool account.

Squire considered whether Mr. Boxler’s accessing Ms. Beal’s PowerSchool account without her permission violated Board Policy 8351 and determined it did not because PowerSchool does not contain information that is likely to lead to identity theft or fraud. For this reason, notification of the breach under Policy 8351 is optional, as “[n]otification is not required, but may be done, when . . . the security breach has not caused or is not likely to result in a material risk of identity theft or other fraud or result in substantial loss or injury to the individuals who are affected by the security breach.”

Given the seriousness of Mr. Boxler’s violations of policy in this matter, Squire recommends the Board publicly disavow Mr. Boxler’s actions. This will make clear Mr. Boxler acted without Board authority when he accessed Ms. Beal’s PowerSchool account. Squire also recommends the Board consider censure for Mr. Boxler. The Board may also refer Mr. Boxler to the Ohio Ethics Commission for further review of his conduct.

- Mr. Boxler attempted to access the District’s Facebook account using passwords saved in the levy email account. He was unsuccessful in accessing the Facebook account. Mr. Boxler attempted to access this account after he told Ms. Tredent he had already deleted Ms. Beal’s passwords from his computer. Because Mr. Boxler did not succeed in logging into the account, he did not violate Policies 0149, 7540.01 or 8330. However, Squire believes Mr. Boxler’s attempt to access the

account using Ms. Beal's password, after Ms. Tredent requested he delete all of Ms. Beal's passwords and Mr. Boxler represented to her that he had, violated Policy 0123, which requires Board members to conduct themselves in an ethical manner. Squire recommends the Board consider censure for Mr. Boxler for this violation. The Board may also refer Mr. Boxler to the Ohio Ethics Commission for further review of his conduct.

- It is more likely than not that Mr. Boxler accessed Ms. Beal's personal Gmail account. There were three confirmed breaches or attempted breaches of Ms. Beal's accounts between April 5 and April 7, 2022. Mr. Boxler admitted to two of them (PowerSchool and the District Facebook page), and his IP address was linked to both. The third, the breach of Ms. Beal's personal Gmail account, occurred on the day Mr. Boxler acknowledged he first logged into the levy campaign email account. It is unfortunate that Ms. Beal was not able to confirm the IP address responsible for that unauthorized access, but the temporal connection and similar circumstances to Mr. Boxler's other forays into Ms. Beal's accounts make it more likely than not that he was responsible for the unauthorized accessing of Ms. Beal's personal Gmail account on April 5.

Assuming that to be true, Mr. Boxler's actions violate Board Policy 7540.01 for the reasons discussed above. Although Policy 7540.01 puts employees on notice that the employer may review their accounts and/or District-issued devices at any time, the policy is not a blanket grant of authority for individual Board members to surreptitiously access employees' personal accounts. First, pursuant to Policy 0122.1, no individual Board member has the right to take such action without express authorization from the Board. Second, Policy 7540.01 limits the employer's right to access employee information to "legitimate business reasons," specifically: as "necessary to determine if the files/e-mail/voice mail constitute a public record or if the Board's interests have been compromised." There was no business interest in accessing Ms. Beal's personal Gmail account, nor could doing so have helped identify public records or confirm whether Board interests were compromised. Given the seriousness of Mr. Boxler's violations of policy in this matter, Squire recommends the Board publicly disavow Mr. Boxler's actions. This will make clear Mr. Boxler acted without Board authority when he accessed Ms. Beal's PowerSchool account. Squire also recommends the Board consider censure for Mr. Boxler. The Board may also refer Mr. Boxler to the Ohio Ethics Commission for further review of his conduct.

- Squire cannot conclude by a preponderance of the evidence that Mr. Boxler engaged in harassment against Ms. Beal as defined by Policy 1662. The relevant portion of Policy 1662 defines harassment as "any threatening, insulting, or dehumanizing . . . use of technology . . . directed against a . . . school employee that: (A) places a . . . school employee in reasonable fear of harm to his/her person or damage to his/her property; (B) has the effect of substantially interfering with . . . an employee's work performance[.]" There can be no doubt that Mr. Boxler's actions caused Ms. Beal to reasonably fear for the privacy of her

personal and family accounts and information. There can also be no doubt that Ms. Beal reasonably felt threatened by Mr. Boxler's actions. However, Policy 1662 is limited to addressing "unlawful harassment," which is defined as including only harassment based on a protected class. There is no allegation that Mr. Boxler used Ms. Beal's passwords because of Ms. Beal's sex, race, age or other protected characteristic. Instead, it seems most likely Mr. Boxler accessed Ms. Beal's accounts out of curiosity and/or personal animus. While neither is an acceptable excuse for Mr. Boxler's behavior, they do not constitute a violation of Policy 1662's prohibition on unlawful harassment.

- Similarly, Squire cannot conclude by a preponderance of the evidence that Mr. Boxler engaged in harassment against Dr. Thompson. While it was reasonable for Dr. Thompson to perceive Mr. Boxler's viewing Dr. Thompson's password and reading it off to him over the phone as threatening, Mr. Boxler's actions do not appear to have been motivated by Dr. Thompson's membership in any protected class and, therefore, do not violate the harassment prohibitions in Policy 1662.
- Squire cannot conclude by a preponderance of the evidence that Ms. Bair retaliated against Ms. Beal when she criticized the typo in the May public announcement. General criticism of employee performance, where it does not result in adverse employment action, is not retaliation. Further, Ms. Beal acknowledges there was, indeed, an error in the message. Ms. Bair's email to Dr. Thompson did not fault Ms. Beal specifically, nor did it call Ms. Beal incompetent; rather it expressed concern about how the community would perceive the District based on the error. There are no facts supporting a connection between Ms. Bair's reaction and Ms. Beal's complaint regarding Mr. Boxler's behavior.
- Squire cannot conclude by a preponderance of the evidence that the Board retaliated against Ms. Beal when her name was removed from the ESC resolution in June 2022. Ms. Bair indicates Dr. Thompson removed Ms. Beal's name of his own accord. Dr. Thompson alleges Ms. Bair insisted Ms. Beal's name be removed. Even if Ms. Bair did make such a request, Squire cannot conclude this was due to Ms. Beal's complaint against Mr. Boxler. Further, Ms. Bair's alleged request had no impact on Ms. Beal's employment or compensation. Squire also confirmed Ms. Bair questioned at least one other ESC employee's contract with the District at the same time she questioned Ms. Beal's.
- Squire cannot conclude by a preponderance of the evidence that the Board retaliated against Ms. Beal when it requested a compensation study for her position. The request, while targeted, did not impact Ms. Beal's employment or compensation. It is clear the Board questions the value of Ms. Beal's work; it is not clear that this is because Ms. Beal complained about Mr. Boxler's unauthorized accessing of her accounts.

- Similarly, Squire cannot conclude by a preponderance of the evidence that Ms. Bair, Mr. Boxler or the Board as a whole retaliated against Dr. Thompson due to his involvement in investigating Mr. Boxler's unauthorized accessing of passwords and accounts. Many of the comments Ms. Beal and Dr. Thompson cited in which Mr. Boxler questioned Dr. Thompson's performance were made long before Mr. Boxler ever accessed Dr. Thompson's passwords or Ms. Beal's accounts. By definition, retaliation cannot happen before the protected activity. Further, with regard to Mr. Boxler's alleged comment to Dr. Thompson over Summer 2022, it is understandable that Dr. Thompson took the comment as a threat against his evaluation and/or eventual contract renewal. However, given Mr. Boxler's comments before he was elected, Squire cannot conclude that he was threatening to give Dr. Thompson a bad evaluation, or to non-renew his contract, because of Ms. Beal's complaint. Rather, it seems more likely that Mr. Boxler was simply continuing to express his plan, set out prior to his election, to vote against any further contracts for Dr. Thompson. Squire will not opine as to the wisdom of Mr. Boxler making these comments to Dr. Thompson, but will conclude only that a preponderance of the evidence suggests they were made due to long-standing disagreements between the two, not due to Ms. Beal's complaint.

Conclusion

As explained in detail above, Squire concludes Mr. Boxler violated several Board policies when he viewed and/or used Ms. Beal's and Dr. Thompson's passwords, and when he accessed Ms. Beal's accounts. The Board should strongly consider censuring Mr. Boxler for this behavior, and publicly disavowing his actions. The Board should also consider referring Mr. Boxler to the Ethics Commission for further investigation.

While Squire has not substantiated claims of unlawful harassment or retaliation, Squire reminds the Board that its policies prohibit retaliation against individuals who have participated in good faith in these types of investigations. All parties and witnesses with whom Squire had contact were responsive to Squire and provided all information requested of them. As such, they are protected from retaliation under the Board policies set forth above.

Please contact us if you have any further questions regarding these issues.

Memo

**To: File – Willoughby-Eastlake City Schools
Data Breach / Harassment Investigation**

From: Emily R. Spivack, Esq.

Date: July 28, 2022

Re: Summary of Catharine Beal Interview on July 22

Introduction

Squire Patton Boggs (“Squire”) has been asked to investigate an allegation by a Willoughby-Eastlake City School District (the “District”) employee that a member of the District’s Board of Education (the “Board”) improperly accessed several of the employee’s personal and professional accounts. Squire has also been asked to investigate whether the Board member’s actions with regard to the alleged breach and subsequent to the employee’s report of the issue amount to harassment and/or retaliation in violation of any Board policies.

Summary of Witness Interview

Interview Date: July 22, 2022
Format: Google Meets
Participants: Catharine Beal, District Director of Communications
Emily Spivack, Squire Patton Boggs

Ms. Spivack began by informing Ms. Beal that Squire is acting as a neutral investigator and that the investigator does not represent Ms. Beal or any other individual involved in this matter. Ms. Spivack also informed Ms. Beal that the conversation was not privileged and, while Ms. Spivack will maintain information Ms. Beal shares as confidentially as possible, Squire cannot promise confidentiality and, in fact, Ms. Beal’s statements will likely be attributed to her in Squire’s final report to the Board. Ms. Beal indicated she has sought legal counsel with regard to the underlying facts of the investigation but is not currently represented. She indicated she is concerned Squire’s investigation will not be neutral given that Squire represents the District in bond financing work. Ms. Spivack acknowledged that work and made clear she has not personally done

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WE - Beal/Boxler - 000001

work for the District in the past.

Ms. Spivack then informed Ms. Beal that several relevant Board policies, including Policy 1411 (Whistleblower Protection) and 1662 (Anti-Harassment) prohibit retaliation against anyone who, in good faith, reports concerns of wrongdoing by Board members and/or District staff, and anyone who participates in good faith in investigations into such allegations. Ms. Spivack informed Ms. Beal that Squire's investigation will include allegations of retaliation that occurred prior to the start of Squire's investigation, but if Ms. Beal feels she experiences retaliation going forward, she should report those concerns to the District's superintendent and/or Board for determination of how to proceed with any additional investigation.

Ms. Spivack then confirmed that Ms. Beal was familiar with two documents the Board provided to Ms. Spivack at the start of Squire's investigation: (1) a police report from the Eastlake Police Department (Incident No. 22-00762) and (2) a 32-page compilation document of Ms. Beal's notes and documentation supporting her allegations. Ms. Beal indicated that with regard to her timeline and notes, when she references talking with or meeting with other District employees, she had those individuals review those portions of the notes prior to her finalizing them to ensure they were accurate.

Ms. Beal is the District's director of communications and is hired through the Educational Service Center ("ESC"). She said she has worked for the District since 1986. Her husband was a Board member from January 1, 2018 through December 31, 2021, and served as Board president for part of that time. Ms. Beal's husband ran for the Board against Bill Boxler in November 2017. Mr. Boxler ran again against Dr. Beal in 2021 and won a seat on the Board. Ms. Beal indicated Mr. Boxler had been a vocal critic of the Board during her husband's time as president. Ms. Beal indicated Mr. Boxler owns an IT company.

Beginning in 2012, Ms. Beal had volunteered to run District levy campaigns. She said she stepped back from that role in October 2021. As part of transitioning out of this role, Ms. Beal told the Eastlake Police Department that she turned over login information for the levy campaign email and social media accounts to Mr. Boxler and two other individuals who were taking over the levy work. Ms. Beal provided the three individuals with this information because members of the Board had directed her to do so.

On April 5, 2022, Ms. Beal received a notification from Gmail that her personal account had been accessed by a Windows device. Ms. Beal indicated she and her immediate family use only Apple devices, but that she did ask her husband and [REDACTED] if any of them had accessed her account. They told her they had not. She changed her password for her email approximately 5 hours later.

The next day, Ms. Beal received a call from then-District Superintendent Steve Thompson, who informed Ms. Beal that he had just spoken with Mr. Boxler, who had asked Dr. Thompson about one of Dr. Thompson's passwords. Ms. Beal said Dr. Thompson was alarmed and asked how Mr. Boxler could have gotten Dr. Thompson's password. Ms. Beal told Dr. Thompson she did not know how that could have happened. Dr. Thompson also

stated that Mr. Boxler said he was able to see passwords and login information belonging to Dr. Thompson.

Later on April 6, Ms. Beal said she got two notifications that someone was attempting to access the District's Facebook accounts. Ms. Beal denied the access and does not believe the access attempt was successful. Ms. Beal indicated the IP address that attempted to access the District's Facebook accounts on April 6 was the same IP address that accessed Ms. Beal's PowerSchool account on April 5. Ms. Beal did not have information about the IP address that accessed her personal Gmail account because she was unaware of how to obtain that information until several days later, by which time Gmail no longer allowed Ms. Beal, as the user, to directly access the login record back to April 5. Ms. Beal stated that Gmail shows the user the last 10 logins to their account, but will not go back further without a court order.

On April 7, 2022, Ms. Beal went to work at the District and notified Andrea Tredent, the District's director of technology, of the possible password breach. Ms. Tredent reviewed Ms. Beal's account activity and reported that her PowerSchool account had been accessed the prior evening to view seven pages. Ms. Beal said Ms. Tredent contacted PowerSchool to attempt to get more information but that the company could not supply the specific pages visited. Ms. Beal said she did not believe she accessed PowerSchool on the evening of April 5, but if she had, it would have registered the IP address of one of her devices. She indicated the IP address identified as having accessed her PowerSchool account on April 5 did not belong to any of her devices or the devices of any of her family members. Ms. Beal reported the District confirmed via login audit that the IP address was that of Mr. Boxler's household.

Ms. Beal said on April 7, Ms. Tredent explained to her how someone with the login information for the District's levy campaign email account might be able to access Ms. Beal's personal passwords or accounts. According to Ms. Beal, this required several steps, including going into the email account's settings, clicking on a screen that identifies there are saved passwords and how many, clicking to view the URL for each password saved, clicking on the username for each URL to view each username, clicking to view passwords, and then unlocking each individual password. Ms. Beal said Ms. Tredent told her it would be standard practice for an IT professional who was given new access to an account to check and see if there were saved passwords, stop at that point, and alert the user if there were. Ms. Beal understood this to allow the user to delete saved passwords before the IT professional would continue using the account. Ms. Beal's understanding of Ms. Tredent's comment was that no IT professional would use or attempt to use someone's saved passwords. Ms. Beal said she understood this to be in violation of Section 2913.04 of the Ohio Revised Code.

Ms. Beal said she was shocked to learn password access was possible in the way Ms. Tredent described. Ms. Beal said she stored approximately 108 passwords in her personal Gmail account. She said it was entirely possible that some of Dr. Thompson's passwords would be on her computer as well, because he occasionally logs into her machine while they are working together. Of the 108 saved passwords, Ms. Beal is aware of

attempts to access three accounts: (1) successful login to her personal Gmail account, (2) successful login to her PowerSchool accounts and (3) attempted login to the District's Facebook account. She is aware of those access attempts because she received specific notifications from her accounts. Ms. Beal confirmed that there are copies of each notification she received in her investigation file. While Ms. Beal does not have specific knowledge of any further breach, she is concerned some of her other accounts may have been accessed given the time it took for her to become aware that her passwords had been accessed.

In addition to concerns about her personal information and the personal information of members of her family, Ms. Beal indicated she is concerned that personally identifiable student information may have been improperly accessed. In particular, Ms. Beal cited the PowerSchool access problematic. She said had someone been able to get into the District's Facebook account, they may also have found student information in private direct messages there, as sometimes parents will contact the District through Facebook and share protected student information there. Ms. Beal cited multiple Board policies, Board administrative guidelines, federal and state laws she believes were violated in this case.

Ms. Beal said she has only discussed the details of this situation with her husband, Dr. Thompson, Ms. Tredent, the police, and individuals she contacted to explore legal representation. She said she has not spoken with Mr. Boxler about the incident at all and that doing so would be inappropriate.

Ms. Beal said she believes Mr. Boxler is the individual who accessed her Gmail and PowerSchool accounts, and tried to access the District's Facebook account. She said she believes that he, as the owner of an IT company, would be familiar with how to view passwords saved in email accounts. She also said she is aware Mr. Boxler admitted to the police that he had accessed one PowerSchool page and that he used Ms. Beal's password to do so because he was curious. She said the fact that PowerSchool indicates the same IP address accessed seven pages, but Mr. Boxler admitted to accessing only one page, makes Ms. Beal especially concerned that Mr. Boxler accessed more of her personal information than she is aware.

Because it is not possible to confirm which pages Mr. Boxler viewed, nor what can be done in the future with any information he may have obtained, Ms. Beal said she believes the District has a legal obligation to notify families of the potential breach of student data, per applicable administrative guidelines. She said that to the best of her knowledge, the District has not put out any statement to families about this issue. Ms. Beal indicated that as the director of communications, she would typically be involved with drafting and releasing such a statement.

Ms. Beal also indicated she believes she has suffered retaliation since she raised concerns about a potential breach in April 2022. She said she is aware the Board president is not familiar with the nature of Ms. Beal's allegations. At one point, in May, Ms. Beal said a message needed to go out about a Board meeting, and the Board president wanted to

preview it. Ms. Beal printed it and gave it to Dr. Thompson, who gave it to the Board president. The Board president read and approved it and the statement was released, but there was a typo in it. Ms. Beal said she immediately sent a retraction and correction with an apology. Ms. Beal said the Board president reached out to Dr. Thompson and asked how the mistake was made and referred to the person making the mistake as incompetent. The Board president also explained to Dr. Thompson that this was not the message she had read and approved. After that, Ms. Beal said the Board questioned her contract and removed the ESC contract that included Ms. Beal from the Board agenda. According to Ms. Beal, that contract, including the portion covering Ms. Beal's employment, was later approved on the June Board agenda, but without Ms. Beal's name specified. Ms. Beal said other employees who, like her, were hired through the ESC, had their names listed in that resolution. Ms. Beal said the Board has also questioned the value of her position since April 2022, but clarified that there has been no change to her pay or benefits since she raised concerns about access to her accounts in April.

Ms. Spivack then advised Ms. Beal as to the next steps in the investigative process, including that Ms. Beal would be provided an opportunity to review this summary and provide any corrections or clarifications. Ms. Spivack provided Ms. Beal a draft of this summary on July 25 and Ms. Beal provided feedback on July 28. This updated summary reflects that feedback.

Memo

**To: File – Willoughby-Eastlake City Schools
Data Breach / Harassment Investigation**

From: Emily R. Spivack, Esq.

Date: August 18, 2022

Re: Summary of Bill Boxler Interview on August 11

Introduction

Squire Patton Boggs (“Squire”) has been asked to investigate an allegation by a Willoughby-Eastlake City School District (the “District”) employee that a member of the District’s Board of Education (the “Board”) improperly accessed several of the employee’s personal and professional accounts. Squire has also been asked to investigate whether the Board member’s actions with regard to the alleged breach and subsequent to the employee’s report of the issue amount to harassment and/or retaliation in violation of any Board policies.

Summary of Witness Interview

Interview Date: August 11, 2022
Format: Microsoft Teams
Participants: Bill Boxler, Board Member
Emily Spivack, Squire Patton Boggs

Ms. Spivack began by informing Mr. Boxler that Squire is acting as a neutral investigator and that the investigator does not represent Mr. Boxler or any other individual involved in this matter. Ms. Spivack also informed Mr. Boxler that the conversation was not privileged and, while Ms. Spivack will maintain information Mr. Boxler shares as confidentially as possible, Squire cannot promise confidentiality and, in fact, Mr. Boxler’s statements will likely be attributed to him in Squire’s final report to the Board.

Ms. Spivack then informed Mr. Boxler that several relevant Board policies, including Policy 1411 (Whistleblower Protection) and 1662 (Anti-Harassment) prohibit retaliation against anyone who, in good faith, reports concerns of wrongdoing by Board members

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WE - Beal/Boxler - 000006

and/or District staff, and anyone who participates in good faith in investigations into such allegations. Ms. Spivack informed Mr. Boxler that Squire's investigation will include allegations of retaliation that occurred prior to the start of Squire's investigation, but if Mr. Boxler feels he experiences retaliation going forward, he should report those concerns to the Board for determination of how to proceed with any additional investigation.

Ms. Spivack then advised Mr. Boxler that Squire's investigation relates to his alleged accessing of a District employee's (Catharine Beal's) personal and District accounts and Superintendent Steve Thompson's passwords in April 2022, and subsequent allegations of retaliation arising from Ms. Beal's complaint about that access.

Mr. Boxler works as a computer consultant and owns a company that teaches seniors how to use computers. He also manages social media accounts for senior living facilities. Mr. Boxler began working in sales and customer service after high school and has been in that field for the majority of his career. He began doing computer programming online in the 1990s. He has owned his company since 2007.

Mr. Boxler was first elected to the Board in November 2021 and took office in January 2022. This is his first term on the Board. He previously ran for a Board seat in November 2017 and was not elected at that time. In both of his campaigns, Mr. Boxler ran against Thomas Beal. Dr. Beal is married to Catharine Beal, the District's director of communications. Mr. Boxler indicated he was publicly critical of Dr. Beal during Dr. Beal's time on the Board, and that Mr. Boxler also publicly questioned the appropriateness of Ms. Beal's being employed by the Board during her husband's tenure. Mr. Boxler explained he was concerned there was a conflict of interest because Ms. Beal reported directly to the superintendent, who in turn reported directly to the Board. Mr. Boxler confirmed he had authored a Facebook post provided to Squire by Ms. Beal on that issue and indicated that post was from the Board election between the two when Mr. Boxler ran (i.e. the 2019 election). Mr. Boxler indicated he believed Ms. Beal might have triggered this investigation in retaliation for Mr. Boxler's speaking out against her husband.

Mr. Boxler said he has known Ms. Beal for approximately 6 years and that he first interacted with Ms. Beal when she came to his home to ask for signatures on her husband's petition to run for the Board. Mr. Boxler said he has known generally of Dr. Thompson since Dr. Thompson came to the District in 2011. Mr. Boxler said he got to know Dr. Thompson better during the District's first levy campaign that happened during Dr. Thompson's leadership. Mr. Boxler said he was initially impressed with Dr. Thompson's leadership, but that he grew critical of the superintendent and Mr. Boxler spoke out publicly against Dr. Thompson during Mr. Boxler's 2021 campaign. Mr. Boxler confirmed he had authored a Facebook post provided to Squire by Ms. Beal regarding Mr. Boxler's position on renewing Dr. Thompson's contract and indicated he posted that comment during his 2021 campaign.

With regard to access to District systems generally, Mr. Boxler indicated that as a Board member, he has a District email address, and [REDACTED], he has a login to PowerSchool (the District's student information management system). He made clear that

Board members do not all have PowerSchool accounts, but would only have them if [REDACTED]. He confirmed he has unique logins for both the District email system and PowerSchool. Mr. Boxler said he is not familiar with the Board's policies regarding access to District information and/or technology systems.

Mr. Boxler said one of the first issues he faced as a new Board member was preparing for a levy the District was putting on the ballot in May 2022. Ms. Beal had served as levy campaign chairperson since approximately 2011 but stepped away from that role for the 2022 levy campaign. Mr. Boxler speculated Ms. Beal had made the decision not to lead the levy campaign anymore because Dr. Beal lost the election. According to Mr. Boxler, Dr. Thompson told him Ms. Beal would be transitioning the levy campaign work, but wanted to do so by February 1. Mr. Boxler was made the Board's liaison to the levy committee and offered to assist the committee with its social media presence. Mr. Boxler said he requested login information for the levy committee social media from Ms. Beal, but that she indicated she did not remember the login information except for the levy campaign's Gmail account and website.

Mr. Boxler said that around April 5, he began working on the levy campaign website. Mr. Boxler explained that he maintains separate Google accounts for his work for each of his clients, and for each, only saves the passwords related to that account in his browser for that account. He set up such an account for the levy campaign on April 6. He then logged into the levy campaign email account and then, in a separate tab but the same browser, went to Weebly, which hosts the levy campaign's website. When Mr. Boxler went to Weebly, while logged into the levy email account in the background, his browser auto-filled the login email and password for Weebly for the levy campaign website.¹ Mr. Boxler said that caught him off-guard and he wondered how his computer would have known to auto-fill that information.

Mr. Boxler said the Weebly auto-fill caused him to look at his browser settings, where he found numerous other passwords stored for various sites, most tied to either Ms. Beal's or Dr. Thompson's email addresses. At that stage, Mr. Boxler could not see the passwords themselves, just the website and login name associated with each password. Mr. Boxler said he then called the Board president, because his understanding of Board policy was that the president should be the one to communicate with the superintendent, and the Board president told Mr. Boxler to reach out to Dr. Thompson directly.

When Mr. Boxler saw the saved passwords, he clicked on the link to PowerSchool and logged in through Ms. Beal's account. Mr. Boxler described this choice as "stupidity." He said he did not expect the login to actually work, but clicked on the link and was immediately in the system. He said he clicked on that link at 6:53 p.m. on April 6. He said he visited one page on that site and immediately clicked to a different tab outside of PowerSchool. He said he did not recall logging out of PowerSchool.

¹ In a subsequent email, Mr. Boxler indicated it was the District's Facebook account that auto-filled a password when he was attempting to log into the levy campaign Facebook page.

Ms. Spivack shared with Mr. Boxler that PowerSchool's records reflect that he visited seven unique pages in Ms. Beal's PowerSchool account. Mr. Boxler said that surprised him and that he did not recall which pages he visited during that session. He said any page visits beyond the home page would have been unintentional. He denied making any changes or attempting to make any changes to any information housed in PowerSchool during the time he was logged into Ms. Beal's PowerSchool account.

Mr. Boxler said that after he spoke with the Board president on April 6, he called Dr. Thompson. Mr. Boxler estimated this phone call occurred approximately 5-10 minutes after Mr. Boxler logged into Ms. Beal's PowerSchool account. Mr. Boxler said he read one of Dr. Thompson's passwords to him and asked if he recognized that. Mr. Boxler said he meant that to be a light-hearted way to warn Dr. Thompson about the need to change his passwords and guard them more closely. Mr. Boxler also told Dr. Thompson he was concerned that Ms. Beal had left so many passwords in the levy campaign email account because anyone with access to that account over the time Ms. Beal ran levy campaigns could have accessed those passwords. Dr. Thompson told Mr. Boxler he didn't fully understand what Mr. Boxler was saying and told Mr. Boxler he would have Andrea Tredent, the District's director of technology, contact him to discuss the security of District accounts.

Mr. Boxler said Ms. Tredent called him about 20 minutes after he accessed Ms. Beal's PowerSchool account. Mr. Boxler said Ms. Tredent informed him the problem he identified with the passwords was part of the reason the District was transitioning to multi-factor authentication for logging in to District accounts. She then asked Mr. Boxler to ensure he had erased the passwords from the levy email account on his computer. He told her he had already done that. Mr. Boxler acknowledged to Squire that later that day, he attempted to access what he thought was the levy campaign's Facebook account using the password that was saved in Ms. Beal's account. He did so because the levy campaign email received notice that the levy campaign's standalone Facebook account (a legacy "grey" account) was being phased out. When he could not access the account, Mr. Boxler clicked the "forgot password" option and reset the password for the levy campaign Facebook account. Although he confirmed this attempted access was after his conversation with Ms. Tredent, Mr. Boxler said he believed he had cleared all passwords from the levy email account prior to his call with Ms. Tredent.

Mr. Boxler denied accessing or attempting to access any accounts he did not own other than Ms. Beal's PowerSchool account and the levy campaign Facebook account. This included specifically denying accessing or attempting to access Ms. Beal's personal Gmail account.

In addition to his concerns regarding Ms. Beal's practice of saving passwords in the levy email account, Mr. Boxler also expressed concern that Ms. Beal had access to Dr. Thompson's accounts. He said at the time he viewed the passwords, he believed that was not appropriate. However, Mr. Boxler said that in hindsight, he understood why Ms. Beal might have needed Dr. Thompson's login information in certain circumstances.

Mr. Boxler said he is not familiar with all of the Board policies governing use of District technology and information systems and indicated he is open to training and/or updates to the policies as necessary.

With regard to allegations of retaliation, Mr. Boxler denied taking any action to retaliate against Ms. Beal or Dr. Thompson since Ms. Beal raised concerns about his access to her accounts in April. Mr. Boxler denied ever taking action as a Board member on a contract involving Ms. Beal. Ms. Spivack asked Mr. Boxler about a series of Board resolutions related to ESC contracts that were tabled June 13 and acted upon at a later meeting. Mr. Boxler said to the best of his recollection, the resolutions were tabled because the Board was trying to better understand the District's plan to move from one ESC to another. Mr. Boxler denied that any Board action in June related to Ms. Beal's contract. Mr. Boxler also stated he had not had an opportunity to vote on a contract for Dr. Thompson since he took office. He said that while he still does not agree with all of Dr. Thompson's decisions and actions, he better understands the pressure on superintendents and board members now that he is on the Board.

Mr. Boxler raised numerous questions during the interview regarding Ms. Beal's conduct while she was the chairperson of the levy committee. He indicated that even currently, the District is using the levy committee's domain name as the email address on the District Facebook and Instagram accounts.² Mr. Boxler also said he was surprised to find no emails in the levy campaign email account when he first logged in, especially given that the levy's political action committee had been active for more than 10 years. He said he learned through the police report related to this matter that Ms. Beal had erased all emails in that account.

Mr. Boxler said he felt like he had been set up and that Ms. Beal had involved the police in this issue because Mr. Boxler had been publicly critical of Ms. Beal and her husband. He said he believes Ms. Beal does not like him, but that he hopes to be able to move forward and work collaboratively with her in the future.

Ms. Spivack then advised Mr. Boxler as to the next steps in the investigative process, including that Mr. Boxler would be provided an opportunity to review this summary and provide any corrections or clarifications. Ms. Spivack provided Mr. Boxler a draft of this summary on August 15, 2022. Mr. Boxler provided feedback on August 18, 2022. This final summary reflects that feedback.

² The levy campaign domain is "supportweschools." The District's domain is "weschools."

Memo

**To: File – Willoughby-Eastlake City Schools
Data Breach / Harassment Investigation**

From: Emily R. Spivack, Esq.

Date: August 26, 2022

Re: Summary of Steve Thompson Interview on August 16

Introduction

Squire Patton Boggs (“Squire”) has been asked to investigate an allegation by a Willoughby-Eastlake City School District (the “District”) employee that a member of the District’s Board of Education (the “Board”) improperly accessed several of the employee’s personal and professional accounts. Squire has also been asked to investigate whether the Board member’s actions with regard to the alleged breach and subsequent to the employee’s report of the issue amount to harassment and/or retaliation in violation of any Board policies.

Summary of Witness Interview

Interview Date: August 16, 2022
Format: Google Meets
Participants: Steve Thompson, Superintendent
Emily Spivack, Squire Patton Boggs

Dr. Thompson confirmed at the start of the interview that he is not represented by counsel for the purposes of this investigation and that he was comfortable proceeding without representation. Ms. Spivack began by informing Dr. Thompson that Squire is acting as a neutral investigator and that the investigator does not represent Dr. Thompson or any other individual involved in this matter. Ms. Spivack also informed Dr. Thompson that the conversation was not privileged and, while Ms. Spivack will maintain information Dr. Thompson shares as confidentially as possible, Squire cannot promise confidentiality and, in fact, Dr. Thompson’s statements will likely be attributed to him in Squire’s final report to the Board.

Ms. Spivack then informed Dr. Thompson that several relevant Board policies, including Policy 1411 (Whistleblower Protection) and 1662 (Anti-Harassment) prohibit retaliation against anyone who, in good faith, reports concerns of wrongdoing by Board members and/or District staff, and anyone who participates in good faith in investigations into such allegations. Ms. Spivack informed Dr. Thompson that Squire's investigation will include allegations of retaliation that occurred prior to the start of Squire's investigation, but if Dr. Thompson feels he experiences retaliation going forward, he should report those concerns to the Board for determination of how to proceed with any additional investigation.

Ms. Spivack then advised Dr. Thompson that Squire's investigation relates to a Board member's (Bill Boxler) alleged accessing of a District employee's (Catharine Beal's) personal and District accounts and Dr. Thompson's passwords in April 2022, and subsequent allegations of retaliation arising from Ms. Beal's complaint about that access.

Dr. Thompson joined the District in 2011 and was superintendent for his entire tenure there. He recently accepted a position with the Akron City School District to become its chief operations officer, and he began that position on August 23. Dr. Thompson has known Ms. Beal since he arrived in the District. He met her through work. Dr. Thompson has known Mr. Boxler since approximately 2013 or 2014 when Mr. Boxler provided assistance for a District levy campaign. Dr. Thompson said he spoke with Mr. Boxler occasionally at community events but did not work directly with him until Mr. Boxler was elected to the Board in November 2021.

Dr. Thompson reached out to the newly elected Board members, including Mr. Boxler, just after the 2021 election, as is his standard practice. Dr. Thompson informed Mr. Boxler and the other new members that the District would be placing a levy on the ballot in May 2022 and that Ms. Beal was stepping away from the levy campaign committee, which she had chaired for approximately 10 years. Dr. Thompson said he spoke frequently with the newly elected Board members and sitting members between November 2021 and February 2022 about the need to form a levy committee and ensure its compliance with Ohio Auditor of State advisories regarding the use of public resources for levy campaigns. Dr. Thompson said that by February 2022, the levy committee had a new chairperson, a treasurer and a Board liaison (Mr. Boxler).

With regard to Mr. Boxler's accessing Ms. Beal's and Dr. Thompson's passwords in April 2022, Dr. Thompson said Mr. Boxler called him during dinner one evening in early April and told Dr. Thompson that the District needed to do something about the accessibility of passwords. Mr. Boxler then read one of Dr. Thompson's passwords to him and asked if it meant anything to him. Dr. Thompson said Mr. Boxler chuckled when he asked that question. Dr. Thompson found the comment threatening because he and Mr. Boxler did not have a friendly relationship and it seemed Mr. Boxler was trying to make Dr. Thompson nervous. Dr. Thompson told Squire that his technology knowledge is limited, so he told Mr. Boxler that he would have the District's director of technology, Andrea Tredent, call Mr. Boxler to discuss the issue.

Dr. Thompson then called Ms. Tredent and asked her to call Mr. Boxler. Ms. Tredent called Dr. Thompson back later that evening and explained how Mr. Boxler had seen the passwords and what Ms. Tredent was doing to fix the access problem. Dr. Thompson said he ended that conversation with the impression Ms. Tredent did not believe Mr. Boxler should have accessed the passwords. Dr. Thompson said at that point, he believed the issue was resolved and was limited to Mr. Boxler's viewing certain passwords.

Dr. Thompson also spoke with Ms. Beal that evening in April and learned that she had recently gotten an alert that someone had tried to access one of her personal accounts. It was not until the next day, though, that Dr. Thompson learned Mr. Boxler had accessed Ms. Beal's PowerSchool account. This caused Ms. Beal and Dr. Thompson to believe it was Mr. Boxler who had tried to access Ms. Beal's personal email account as well. Dr. Thompson said when he learned Mr. Boxler had also used some of the passwords he found, Dr. Thompson concluded Mr. Boxler had called Dr. Thompson the night before in an attempt to appear proactive when, in fact, Mr. Boxler had had the passwords and attempted to use them even the day prior.

When Dr. Thompson learned there had been unauthorized access to Ms. Beal's PowerSchool account, he began an investigation and notified the Board president, Krista Bair. Dr. Thompson indicated he and Ms. Bair consulted with legal counsel about how to proceed.¹ Ultimately, Dr. Thompson did investigate and concluded there were "multiple breaches," including to Ms. Beal's PowerSchool account and a District Facebook account. The IP address that had accessed or attempted to access those accounts was from Mr. Boxler's home. Once Dr. Thompson determined there had been unauthorized access and identified the IP address, he turned the issue over to local law enforcement. Dr. Thompson indicated he believed this was required by Board policy and his obligations as superintendent.

Dr. Thompson said he was particularly concerned about Mr. Boxler's accessing PowerSchool, which is the District's student information system. Mr. Boxler told law enforcement he accessed only one page in PowerSchool, but PowerSchool records indicated he accessed seven pages. PowerSchool could not identify which pages Mr. Boxler accessed. Dr. Thompson said he advised Ms. Bair on multiple occasions that the District should broadly notify the community of a possible breach in order to comply with FERPA. Dr. Thompson said Ms. Bair was resistant to that suggestion, he believes because she is aligned with Mr. Boxler on the Board. Dr. Thompson said he is concerned that Ms. Bair has not informed the other Board members of Mr. Boxler's use of Ms. Beal's passwords.

With regard to Ms. Beal's allegations of retaliation, Dr. Thompson said Ms. Beal's contract is through the Educational Service Center ("ESC") and does not expire until the end of the 2022-23 school year. However, he said the District renews contracts with the ESC each year, and the ESC will typically list the ESC employees assigned to the District and their contract term dates on the ESC-District contract. Dr. Thompson said when the ESC

¹ Ms. Spivack instructed Dr. Thompson not to share the substance of any conversation with District counsel, as Squire's investigation is not privileged.

sent its contract for Board review this year, Board members questioned Dr. Thompson about whether he was giving Ms. Beal a new contract. According to Dr. Thompson, the Board insisted on removing Ms. Beal's name from the document before the Board voted on it. Dr. Thompson said the version of the document with Ms. Beal's name was pulled before it was ever placed on the public BoardDocs website but that the District treasurer may have a copy of the original. Dr. Thompson said Mr. Boxler has never voted on Ms. Beal's contract. Dr. Thompson added that Ms. Beal volunteered to return to the levy committee after the District's initial effort failed in May 2022, but the committee refused to allow her back. Dr. Thompson believes this is due to several Board members' dislike for Ms. Beal.

Mr. Boxler has also never voted on Dr. Thompson's contract. However, during the 2021 Board election, Mr. Boxler made several public comments indicating he would not vote to renew Dr. Thompson's contract. Dr. Thompson said approximately 4 to 6 weeks prior to this interview, he had a conversation with Mr. Boxler during which Mr. Boxler attempted to explain why he had used Ms. Beal's login information in April and Dr. Thompson responded that what Mr. Boxler did was illegal. Dr. Thompson said Mr. Boxler then told him if Ms. Beal proceeded with her claim he would "ruin her," and then made a veiled threat about Dr. Thompson's evaluation. Dr. Thompson said he began seriously looking for alternative employment after that conversation. Dr. Thompson said his new position with Akron CSD will cost him substantial income and will impact his family and lifestyle. He further stated he would not have sought another job but for behavior of Board members since the November 2021 election. He said he believes the Board has created a hostile work environment for himself and Ms. Beal, primarily arising out of Mr. Boxler's actions in April and Ms. Bair's subsequent handling of that situation.

Ms. Spivack then advised Dr. Thompson as to the next steps in the investigative process, including that Dr. Thompson would be provided an opportunity to review this summary and provide any corrections or clarifications. Ms. Spivack provided Dr. Thompson a draft of this summary on August 17, 2022. Dr. Thompson did not provide feedback on the draft.

Memo

**To: File – Willoughby-Eastlake City Schools
Data Breach / Harassment Investigation**

From: Emily R. Spivack, Esq.

Date: August 10, 2022

Re: Summary of Andrea Tredent Interview on August 8

Introduction

Squire Patton Boggs (“Squire”) has been asked to investigate an allegation by a Willoughby-Eastlake City School District (the “District”) employee that a member of the District’s Board of Education (the “Board”) improperly accessed several of the employee’s personal and professional accounts. Squire has also been asked to investigate whether the Board member’s actions with regard to the alleged breach and subsequent to the employee’s report of the issue amount to harassment and/or retaliation in violation of any Board policies.

Summary of Witness Interview

Interview Date: August 8, 2022
Format: Microsoft Teams
Participants: Andrea Tredent, Director of Technology
Emily Spivack, Squire Patton Boggs

Ms. Spivack began by informing Ms. Tredent that Squire is acting as a neutral investigator and that the investigator does not represent Ms. Tredent or any other individual involved in this matter. Ms. Spivack also informed Ms. Tredent that the conversation was not privileged and, while Ms. Spivack will maintain information Ms. Tredent shares as confidentially as possible, Squire cannot promise confidentiality and, in fact, Ms. Tredent’s statements will likely be attributed to her in Squire’s final report to the Board.

Ms. Spivack then informed Ms. Tredent that several relevant Board policies, including Policy 1411 (Whistleblower Protection) and 1662 (Anti-Harassment) prohibit retaliation against anyone who, in good faith, reports concerns of wrongdoing by Board

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members and/or District staff, and anyone who participates in good faith in investigations into such allegations. Ms. Spivack informed Ms. Tredent that if she feels she experiences retaliation going forward, she should report those concerns to the District's superintendent and/or Board for determination of how to proceed with any additional investigation.

Ms. Spivack then told Ms. Tredent that for the purposes of the interview, Squire was looking only at potential improper access to District accounts, including email, PowerSchool and Facebook accounts. Ms. Tredent indicated she could only speak to District email and PowerSchool accounts, not the Facebook account because she does not have access. She also made clear she could not speak to any potential breaches of employees' personal accounts.

Ms. Tredent is the District's director of technology. She has worked for the District in that role for one year and previously served in that role for another school district for three years. She said she is generally familiar with the District's policies regarding access to District accounts. She indicated each employee and Board member is issued their own login for District email, and that each teacher of record and central office employee who needs PowerSchool access is issued a unique login for PowerSchool. Employees do not share email addresses or PowerSchool accounts. Ms. Tredent also explained that parents and students are issued PowerSchool logins. The District hosts its own PowerSchool platforms and maintains separate sites for teachers, administrators and parents/students.

Ms. Tredent indicated she was aware of an issue that arose in early April regarding access to two District administrator's accounts. She said she first learned of the possible issue from then-Superintendent Steve Thompson at 7:08 p.m. on April 6. Dr. Thompson told Ms. Tredent during that phone call that Board member Bill Boxer had called Dr. Thompson about some of his passwords but that Dr. Thompson did not fully understand the issue and asked Ms. Tredent to follow up with Mr. Boxler.

At 7:17 p.m., Ms. Tredent received a call from Catharine Beal, the District's director of communications. Ms. Beal told Ms. Tredent that Mr. Boxler had been able to recite one of Dr. Thompson's passwords to him, and Ms. Beal expressed concern about the security of District accounts. This was the first Ms. Tredent was aware there may be an issue with access to District accounts.

Ms. Tredent called Mr. Boxler immediately after speaking with Ms. Beal and estimated she spoke to him for approximately 5 minutes. According to Ms. Tredent, Mr. Boxler told her during this conversation that he logged into the District's levy email account after Ms. Beal provided the login credentials for that account. He then realized he could see some of the passwords saved in the account. Ms. Tredent said she assumed the passwords were connected to Ms. Beal's accounts because Ms. Beal had previously managed the levy campaign email account. She said she did not ask Mr. Boxler many questions because she believed she already understood what had happened and that it related to Ms. Beal's being logged into multiple Google accounts simultaneously and saving passwords. Mr. Boxler did not tell Ms. Tredent which passwords he could see. Ms. Tredent said Mr. Boxler indicated he was concerned others may have had access to the same

information in the past. Ms. Tredent said she would advise Ms. Beal to change her passwords.

About 20 minutes after her conversation with Mr. Boxler, Ms. Tredent spoke again by phone with Ms. Beal. She advised Ms. Beal to change her passwords and to tell Dr. Thompson to do the same. Ms. Tredent then sent Ms. Beal an email with instructions on how to change passwords to District accounts. Ms. Beal emailed Ms. Tredent late that night that she was having difficulty resetting her passwords, and Ms. Tredent handled the reset first thing the next morning.

Ms. Tredent said that in cases of suspected breaches, she first checks District Google accounts, then school messenger accounts, then PowerSchool. These are the primary points of access to District and student information. When Ms. Tredent got to work on April 7, she checked Dr. Thompson's and Ms. Beal's District Google accounts for any unusual activity, especially logins from unusual IP addresses. She found no unusual activity on those accounts. Ms. Tredent also confirmed there was no unusual activity in Dr. Thompson's or Ms. Beal's messenger accounts.

Ms. Tredent then asked a member of her staff, Sue Costello, to pull PowerSchool login information for Dr. Thompson's and Ms. Beal's accounts. Ms. Costello is one of the District's PowerSchool administrators. The PowerSchool reports showed no unusual activity on Dr. Thompson's account. On Ms. Beal's account, there was one IP address that had not been used previously to access her account. Ms. Tredent cross-referenced that IP address with other logins the District issued and determined the only other accounts accessed from that IP address belonged to the Boxler household. The login to Ms. Beal's account occurred at 6:53 p.m. on April 6 and lasted approximately 41 minutes. (PowerSchool automatically logs a user out after 40 minutes of being idle.) The PowerSchool report indicated the user visited seven pages during that 41-minute session, but the system was unable to report which specific pages were visited. Ms. Tredent and her team did confirm no changes were made to student information in the categories of transportation, contact log, contacts, demographics, incidents, lunch, medication, enrollments, permissions or grades. Ms. Costello changed Dr. Thompson's and Ms. Beal's PowerSchool credentials by 8:30 a.m. on April 7. Ms. Tredent confirmed that she was confident at that point that all District accounts were secure.

Ms. Tredent said checking for passwords in a Google account would not be her first step as an IT professional granted access to a new account, such as the levy email account. However, she said as an IT professional, it would be likely she would notice a saved password if the browser attempted to autofill login information while she was logged into the new account. (By way of example, Ms. Tredent said if she were logged into the levy email account and then tried to open Facebook, the site might try to autofill the original email account holder's Facebook login information, which would signal to Ms. Tredent that the password was saved in the email account.) She said if that happened, it might trigger her to look at whether there were, in fact, passwords saved in the email account. She said she, personally, would not have reviewed the passwords themselves, but that she could not speak to an industry standard on that point.

Ms. Tredent added that it is very easy to accidentally save numerous passwords in the wrong account if a user is logged into multiple Google accounts at once. She explained that can happen when one account is operating in the background and the user chooses to have the browser remember a password on their primary account.

Ms. Tredent said she has not had any conversations about this issue beyond the communications on April 6 and 7 with Ms. Beal, Dr. Thompson, Mr. Boxler and Ms. Costello. She added that she believes a few members of her staff are aware of the circumstances from Ms. Beal.

In summary, Ms. Tredent said the Technology Department's review determined it was likely there was a PowerSchool password that was linked to the levy campaign email account, and the review further confirmed that Ms. Beal's PowerSchool account was accessed and viewed by someone other than Ms. Beal.

Ms. Spivack then advised Ms. Tredent as to the next steps in the investigative process, including that Ms. Tredent would be provided an opportunity to review this summary and provide any corrections or clarifications. Ms. Spivack provided Ms. Tredent a draft of this summary on August 10 and Ms. Tredent provided feedback that same day. This updated summary reflects that feedback.

Memo

**To: File – Willoughby-Eastlake City Schools
Data Breach / Harassment Investigation**

From: Emily R. Spivack, Esq.

Date: September 6, 2022

Re: Summary of Krista Bair Interview on August 18

Introduction

Squire Patton Boggs (“Squire”) has been asked to investigate an allegation by a Willoughby-Eastlake City School District (the “District”) employee that a member of the District’s Board of Education (the “Board”) improperly accessed several of the employee’s personal and professional accounts. Squire has also been asked to investigate whether the Board member’s actions with regard to the alleged breach and subsequent to the employee’s report of the issue amount to harassment and/or retaliation in violation of any Board policies.

Summary of Witness Interview

Interview Date: August 18, 2022
Format: Microsoft Teams
Participants: Krista Bair, Board President
Emily Spivack, Squire Patton Boggs

Ms. Spivack began by informing Ms. Bair that Squire is acting as a neutral investigator and that the investigator does not represent Ms. Bair or any other individual involved in this matter. Ms. Spivack also informed Ms. Bair that the conversation was not privileged and, while Ms. Spivack will maintain information Ms. Bair shares as confidentially as possible, Squire cannot promise confidentiality and, in fact, Ms. Bair’s statements will likely be attributed to her in Squire’s final report to the Board.

Ms. Spivack then informed Ms. Bair that several relevant Board policies, including Policy 1411 (Whistleblower Protection) and 1662 (Anti-Harassment) prohibit retaliation against anyone who, in good faith, reports concerns of wrongdoing by Board members

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WE - Beal/Boxler - 000019

and/or District staff, and anyone who participates in good faith in investigations into such allegations. Ms. Spivack informed Ms. Bair that Squire's investigation will include allegations of retaliation that occurred prior to the start of Squire's investigation, but if Ms. Bair feels she experiences retaliation going forward, she should report those concerns to the Board for determination of how to proceed with any additional investigation.

Ms. Spivack then advised Ms. Bair that Squire's investigation relates to Board member Bill Boxler's alleged accessing of a District employee's (Catharine Beal's) personal and District accounts and Superintendent Steve Thompson's passwords in April 2022, and subsequent allegations of retaliation arising from Ms. Beal's complaint about that access.

Ms. Bair is an instructional designer for Progressive and has a background in human resources. Ms. Bair ran for the Board for the first time in November 2021 and took office in January 2022. Prior to being elected to the Board, Ms. Bair was a [REDACTED] volunteer in the District and an active member of the [REDACTED]. She has known Dr. Thompson since her election to the Board. She has never formally met Ms. Beal, though she has participated in at least one meeting where Ms. Beal was present. That meeting occurred prior to April 2022. Ms. Bair met Mr. Boxler while they were both campaigning for their Board seats in 2021. Their campaigns were not formally affiliated in anyway.

Ms. Bair said she is generally familiar with Board policy and where to find it, but is not familiar with the details of the Board's policies on technology use and account access. She said she initially learned of a potential issue regarding access to District accounts when Mr. Boxler contacted her one evening to report that while he was working on District levy business, he had come across saved usernames and passwords for Ms. Beal's and Dr. Thompson's accounts. Ms. Bair said Mr. Boxler told her he came across the passwords while trying to change the password for the levy committee email account. Ms. Bair said she told Mr. Boxler to contact Dr. Thompson immediately, and Mr. Boxler later confirmed to Ms. Bair that he had done so. Ms. Bair believed that was the extent of the issue until approximately two weeks later.

Ms. Bair spoke with Dr. Thompson and Board counsel on April 18 or 19.¹ During that conversation, Dr. Thompson notified Ms. Bair that Ms. Beal intended to file criminal charges against Mr. Boxler. Coming out of that conversation, Ms. Bair understood that she was not to discuss Mr. Boxler's password access issue outside the presence of Board counsel. After that point, Ms. Bair said she only had two conversations in which the topic came up when Board counsel was not present.

The first was following the April 23 Board retreat. Dr. Thompson asked Ms. Bair and the Board treasurer to meet with him in his office. Ms. Bair said that during that conversation, Dr. Thompson railed against Mr. Boxler's actions and indicated Ms. Beal was going to file a harassment complaint against Mr. Boxler. According to Ms. Bair, Dr. Thompson said he might be able to get Ms. Beal to refrain from filing if Mr. Boxler resigned.

¹ Ms. Spivack instructed Ms. Bair not to share the substance of any conversations with legal counsel, nor any advice provided by Board counsel.

Ms. Bair told Dr. Thompson she did not have the authority to force Mr. Boxler to resign. Ms. Bair said it was during this meeting that she first learned Mr. Boxler had actually used some of Ms. Beal's passwords to access her accounts. Ms. Bair said she did not confirm this or learn details of the access until she received a copy of the Eastlake Police Department report in May 2022.

The second non-privileged conversation Ms. Bair said she had about Mr. Boxler's accessing accounts was later in April or early May 2022. Ms. Bair said she had checked her own accounts on her District Chromebook and realized there were personal passwords saved there, just as there had been in Ms. Beal's account. Ms. Bair said she contacted Dr. Thompson to urge him to speed up the District's planned implementation of multi-factor authentication. According to Ms. Bair, Dr. Thompson was opposed to that idea and wanted instead to talk about the fact he believed Mr. Boxler would go to jail for accessing Ms. Beal's accounts. Dr. Thompson also alleged at that time that he believed he and Ms. Beal were facing a hostile work environment. Ms. Bair said she reminded Dr. Thompson they weren't to be discussing Mr. Boxler in that forum, and that she followed up with an email regarding her wishes for introduction of 2-factor authentication.

Ms. Bair said her understanding now is that Mr. Boxler was granted access to the levy campaign email account and went in to change the account password, at which time he discovered passwords saved in the browser for various accounts of Ms. Beal's and Dr. Thompson's. The security issue has been addressed going forward because the District now uses multi-factor authentication for all district accounts. Ms. Bair said she also understands it is possible Mr. Boxler used Ms. Beal's credentials to access her PowerSchool account, but that PowerSchool cannot identify which pages he visited, only the number of pages. Ms. Bair said she is also now aware that Mr. Boxler may have attempted to access Ms. Beal's personal Gmail account, but Ms. Bair was not aware of whether that attempt was successful.

Ms. Bair denied speaking with Mr. Boxler about his accessing Ms. Beal's and Dr. Thompson's accounts or passwords. She said Mr. Boxler has broached the subject a couple of times since April but that she responds that they cannot talk about it.

With regard to Ms. Beal's allegation that the Board retaliated by not voting on her contract this year, Ms. Bair explained that Ms. Beal's contract was not actually up for renewal this year. Ms. Bair did confirm that the ESC, through which the Board employs Ms. Beal, sent a renewal contract in the spring, which listed all ESC employees assigned to the District, including Ms. Beal. Ms. Bair and another Board member (not Mr. Boxler) separately questioned why Ms. Beal was listed if her contract was not up for renewal. According to Ms. Bair, Dr. Thompson indicated that was a mistake. Ms. Bair said she was not familiar with the other ESC employees listed and did not know if they were mid-contract or up for renewal. She said she believed Ms. Beal's name was the only one removed from the resolution. Ms. Bair said she initially reached out to Dr. Thompson about the ESC resolution because the contract included a COVID coordinator, but the District had dropped all COVID restrictions and Ms. Bair did not believe the coordinator was necessary. Dr. Thompson told Ms. Bair that individual had been transitioned to a public relations

position and Ms. Bair requested the agenda be updated to reflect that. Ms. Bair then also asked Dr. Thompson why Ms. Beal was listed. Ms. Bair said the Board also commissioned a salary study of Ms. Beal's position because members wanted to understand if her pay was consistent with market rates. Ms. Bair said the Board did not do similar studies for other ESC staff assigned to the District because the other ESC positions' roles were shifting and it would not have been appropriate to do a study until their titles and roles were finalized. The Board did not make any change to Ms. Beal's salary.

Ms. Beal had also alleged Ms. Bair retaliated against her in May by criticizing Ms. Beal's work inappropriately. Specifically, Ms. Beal alleged Ms. Bair had reviewed and approved a communication for release to the public, and then been overly critical of Ms. Beal when the communication went out with an error in it. Ms. Beal alleged Ms. Bair had not noticed the error in the draft and blamed Ms. Beal for it. Ms. Bair said she and another Board member, Stacy Menser, were in Dr. Thompson's office for a meeting on a different topic and he asked them to review a public notice that was to be sent out. Both did, reviewing it in hard copy, and approved it. Ms. Bair said when the message went out a day or two later, the date in it was "completely wrong." She said she then emailed Dr. Thompson to say the District could not afford mistakes in communications to the community, especially given that the District's levy had recently failed. Ms. Bair said the error was not present in the version of the statement she reviewed. Dr. Thompson responded by attaching a screenshot of a document on a computer screen and said it was the version Ms. Bair and Ms. Menser approved. Ms. Bair said she is certain the computer version was different from the hard copy she reviewed.

Overall, Ms. Bair said her relationship with Dr. Thompson has been difficult since she was elected. She said Dr. Thompson told her from the outset that if she reviewed him poorly, it would be grounds for legal action. She said Dr. Thompson also accused her of micromanaging when she asked questions. Ms. Bair said she has found Dr. Thompson to be "combative," citing as an example a time when she and Dr. Thompson ended a phone call and Ms. Bair immediately had to join a virtual meeting with the District treasurer and Dr. Thompson. With Ms. Bair already on the line, she said Dr. Thompson walked into the room where the treasurer was connected to the call and said, "Well, that bitch is really mad today, you better watch out." Ms. Bair said she believes Dr. Thompson was not pleased with the turnover on the Board after the November 2021 election, and particularly that Ms. Beal's husband was no longer on the Board.

Ms. Spivack then advised Ms. Bair as to the next steps in the investigative process, including that Ms. Bair would be provided an opportunity to review this summary and provide any corrections or clarifications. Ms. Spivack provided Ms. Bair a draft of this summary on August 19, 2022. Ms. Bair provided feedback through Board counsel on September 5. This summary reflects that feedback.