

WADDELL | SERAFINO

GEARY ■ RECHNER ■ JENEVEIN

1717 Main Street | Suite 2500 | Dallas, Texas 75201
Main 214-979-7400 | Fax 214-979-7402

June 13, 2022

Round Rock Independent School District Report

CONFIDENTIALITY NOTICE

This document is protected from disclosure to third parties by the attorney-client privilege, work product doctrine, or both.

TABLE OF CONTENTS

	PAGE
Background and Scope of Work.....	3
1. Round Rock Independent School District	3
2. COVID-Related Orders	3
3. The Mask Requirement	3
4. The Courts.....	4
5. The Records.....	5
a. Email Containing Attorneys’ Legal Analyses.....	5
b. Email Containing Attorney’s Legal Advice	7
c. Email Containing Attorneys’ Complaints About September 14 Board Meeting.....	8
Issues	9
1. Were the emails disseminated by Trustee Weston considered “confidential” under the Public Information Act and, accordingly, otherwise excepted from disclosure under the Act?	9
2. Did Trustee Weston violate any District procedures, District policies, or the law by disseminating “confidential” emails to individuals not affiliated with the District? .	
3. What options are available to the Board to prevent an individual trustee’s disclosure of otherwise internal confidential, attorney-client privileged information outside the District?	9
Analysis.....	10
1. Were the emails disseminated by Trustee Weston considered “confidential” under the Public Information Act and, accordingly, otherwise excepted from disclosure under the Act?	10
a. Exceptions to Section 552.021	10
b. Communications Protected by the Attorney-Client Privilege	11
c. Emails that were confidential by law.....	12
2. Did Trustee Weston violate any District procedures, District policies, or the law by disseminating “confidential” emails to individuals not affiliated with the District?	13
a. Operating Procedures	13
b. Board Policies – (LOCAL).....	15
c. Board Policies – (LEGAL)	17
3. What options are available to the Board to prevent an individual trustee’s disclosure of otherwise internal confidential, attorney-client privileged information outside the District?	20
a. Limiting trustee’s access to records reflecting attorney-client privileged communications	20
b. Excluding trustee from executive session where attorney-client advice is sought on a topic and the trustee has previously disseminated attorney-client communications to the District’s adversaries in litigation.....	21
c. Censure.....	22

Background and Scope of Work

1. Round Rock Independent School District

Round Rock Independent School District (“the District”) “is located in southern Williamson County and northwest Travis County and includes the City of Round Rock and portions of the City of Austin and the City of Cedar Park. The area covers 110 square miles encompassing high tech manufacturing and urban retail centers, suburban neighborhoods, and farm and ranch land.” It is comprised of 56 schools and approximately 50,000 students.¹

The District is governed by a seven-member Board of Trustees (the “Board”). Each trustee is elected at-large to serve staggered four-year terms. Trustee and former Board President Amy Weir, Trustee and current Board President Amber Feller, and Trustee Cory Vessa were all elected in 2018. Trustee Mary Bone, Trustee Danielle Weston, Trustee Jun Xiao, and Trustee Tiffanie Harrison were elected in the general election held in November 2020.

2. COVID-Related Orders

On March 13, 2020, Governor Greg Abbott issued a disaster proclamation stating that COVID-19 posed “an imminent threat of disaster for all Texas counties” and a series of COVID-related executive orders thereafter.

On May 18, 2021, Governor Abbott issued an Executive Order prohibiting school districts and other Texas governmental entities from requiring any student, teacher, parent, other staff member, or visitor to wear a mask.

On July 29, 2021, Governor Abbott issued Executive Order No. GA-38, which combined several previous executive orders in an effort to “promote statewide uniformity and certainty in the state's COVID-19 response.” The executive order stated, among other things, that no school district “may require any person to wear a face covering or to mandate that another person wear a face covering.”

Nevertheless, many of the largest independent school districts in Texas, including Austin ISD, Houston ISD, Dallas ISD, Fort Worth ISD, Northeast ISD, and others, instituted mask mandates for students and staff. Other large Texas school districts encouraged masks but did not institute a mandate.

3. The Mask Requirement

On August 16, 2021, the District’s Board voted to temporarily mandate masks for all students, teachers, staff members, and adult visitors when six feet of distance could not be

¹ <https://roundrockisd.org/about-rrisd/>

maintained beginning August 18, 2021. That mandate, however, included a broad opt-out provision for staff and students.

On August 24, 2021, the Board updated its mandate to narrow the opt-out provision by requiring individuals seeking an exemption from the policy to submit documentation establishing health or developmental conditions that warranted excusing them from the mask requirement. The Board set the updated mandate to expire on September 17, 2021.

The Board intended to address the mask mandate at its September 14, 2021 meeting, but that meeting was disrupted and adjourned before the Board addressed the issue.² As a result, the mask requirement was not extended and expired on September 17, 2021.

The Board scheduled another meeting for September 22, at which time it reinstated the mask requirement and established and implemented a “mask matrix” to guide future changes to the mask requirements. Masks were required throughout the fall 2021 semester and continued when students returned to schools on January 5, 2022.

Beginning February 21, 2022, the District announced that masks would not be required but would be strongly recommended for staff, students, and visitors.

4. The Courts

On August 9, 2021, 15 individuals, some of whom are parents of children who attend schools in the District, filed a lawsuit seeking a declaratory judgment and temporary injunction against the District, its Board, and then Acting Superintendent Dr. Daniel Pressley.³ Those parents sought a declaration that the mask mandate in place at that time violated various provisions of the Texas Constitution and requested a permanent injunction to prevent implementation and enforcement of any mandatory mask requirements.⁴

On August 26, 2021 – ten days after the Board voted to require masks in its schools, one day after it narrowed the opt-out provision, and three weeks before it voted to renew that

² There is a disagreement among the trustees about the propriety of the actions taken at and the events that resulted in terminating the September 14, 2021 Board meeting. Following and as a result of that meeting, the Board – excluding Trustees Weston and Bone – drafted a resolution to “censure” Trustees Weston and Bone because they “undermined the orderly governance of the District” by, among other things, their “repeated failure to follow the Board President’s ruling and the decision of the Board of Trustees regarding social distancing led or contributed to the disruption of the September 14, 2021 Board Meeting” and because they “repeatedly insisted on calling for a vote on spacing rules for the September 14, 2021 Board Meeting even though this matter was not on the agenda.”

³ Dr. Pressley served as Acting Superintendent from Nov. 30, 2020, to July 4, 2021.

⁴ See Cause No. 21-1187, *Dustin Clark, Matt Winters, Leslie Winters, John Keagy, Rachel Keagy, Shauna Kinningham, April Brinson, Jessica Pryor, Katy Hardin, Vanessa Wenneker, Tracy Banks, Lisa Lusby, Stacey Andrewartha, Glenda Mosley, and Anna Belousov v. Round Rock Independent School District, Superintendent Dr. Daniel Pressley, and the Board of Trustees for the Round Rock Independent School District*, filed in the 425th Judicial District Court in Williamson County, Texas.

requirement – the Texas Supreme Court issued an Order staying the enforcement of a mask mandate in a case involving the City of San Antonio and Bexar County.

Also, on August 26, 2021, Williamson County Attorney Doyle “Dee” Hobbs issued a press release stating, in part, that Governor Abbott’s Executive Order No. GA-38 “is still controlling law and any mask mandates by local governing bodies are illegal.” Hobbs stated that “[u]ntil such time as the supreme court interprets the governor’s decision to be unlawful or otherwise unconstitutional, his executive order is the law of the land.” Hobbs acknowledged, however, that “the actions of the supreme court have been case specific in each instance where an order has been signed [and] are not something that can be relied upon by the state of Texas or any sub or quasi-governmental entity therein.”

On September 9, 2021, the State of Texas filed a lawsuit seeking a temporary restraining order and a temporary injunction against the District, its Board, Superintendent Dr. Hafedh Azaiez, and the individual trustees for “deliberately violating state law.”⁵ The State argued that the District’s mask mandate was barred by Governor Abbott’s executive order. And by “flouting GA-38’s ban on mask mandates,” the District and the other defendants were challenging “the policy choices made by the State’s commander in chief during times of disaster.”

Finally, on September 21, 2021, Trustees Danielle Weston and Mary Bone filed an application for a temporary restraining order, a temporary injunction, and permanent injunction against the other members of the District’s Board, Amy Weir, Amber Feller, Tiffanie Harrison, Dr. Jun Xiao, Cory Vessa seeking an order requiring the other Board members to “perform their mandatory duties and refrain from committing ultra vires acts that violate Plaintiffs’ constitutional rights.”⁶ The lawsuit purportedly arose out of “resolutions to censure Plaintiffs Weston and Bone, without proper notice or opportunity to be heard” in violation of the “U.S. and Texas constitutions, common law, as well as the Board’s own operating procedures.”

5. The Records

a. Email Containing Attorneys’ Legal Analyses⁷

On August 26, 2021 – the same day the Texas Supreme Court entered its Order staying the enforcement of the mandate in a case involving the City of San Antonio and the County of

⁵ See Cause No. 21-1471, *State of Texas v. Round Rock Independent School District, Board of Trustees of Round Rock Independent School District; Superintendent Dr. Hafedh Azaiez; Amy Weir; Amber Feller; Tiffanie Harrison; Dr. Jun Xiao; Dr. Mary Bone; Cory Vessa; and Danielle Weston*, filed in the 368th Judicial District Court in Williamson County, Texas.

⁶ See Cause No. 21-1561, *Danielle Weston and Mary Bone v. Round Rock Independent School District Board of Trustees; Amy Weir; Amber Feller; Tiffanie Harrison; Dr. Jun Xiao; and Cory Vessa*, filed in the 395th Judicial District Court in Williamson County, Texas.

⁷ See, for example, a portion of this email thread attached hereto as Exhibit 1.

Bexar and on the same day Williamson County Attorney Dee Hobbs issued a press release stating that Governor Abbott's executive order "is the law of the land" - Trustee Bone initiated an email to the District's Interim General Counsel Jenny Wells, Superintendent Azaiez, Board President Weir, Board Counsel Douglas Poneck, and Trustee Weston:

As Trustee Weston and I predicted the SCOTX is upholding the Governor's Mask Mandate. It is time for us to put this issue to rest and apologize to our community for the I'll (*sic*) timed meeting Monday when we knew this ruling was coming. Please advise on next steps. Do we need a meeting? If so please take this as an official request.

Interim GC Wells responded to Trustee Bone's email and copied the original recipients providing her legal analysis of the supreme court's Order:

The decision is in the Dallas County and Bexar County cases, in which Abbott argued that the governor, not individual cities or counties, acts as the commander in chief. I am not sure if this decision would extend to ISDs and somehow moot out the pending Travis County cases. I realize that AG Paxton is taking the position that it applies to all entities including school districts, but I'm not sure that was the intent of the Supreme Court since the issue before it in this case was only cities and counties.

After Trustee Weston responded and copied the original recipients, Board Counsel Poneck provided his legal analysis of the supreme court's Order. He also only included the original recipients on his response:

The Supreme Court has not ruled on the Governor's motion for emergency relief for the Southern Center TRO, which is a statewide order enabling school districts to block the Governor's ban. Until the Supreme Court rules on this TRO, this is still in place. The Supreme Court could have addressed this TRO as well in its ruling, but it did not. So, we need to see how this TRO is addressed by the Supreme Court. Finally, the AG's view is not definitive or the final word on these issues the AG is representing a party in the litigation.

Continuing on August 26, 2021, and after several exchanges among those on this email thread, Trustee Weston offered her opinion about likely rulings of the supreme court and urged the group to "put this sad and ugly chapter behind us and move forward . . . I will not keep this rational and logical view to myself. I will share it with everybody who asks me."

The following day, August 27, 2021, Trustee Weston replied to everyone involved in the original email thread and added Bill Gravell, Doyle "Dee" Hobbs, Jeffrey Cottrill, and Tom Maynard to the email thread that included the legal analysis of both Interim GC Wells and Board Counsel Poneck and attached a copy of County Attorney Hobbs's press release stating that "any mask mandates by local governing bodies are illegal." None of these additional individuals Weston added to the email work for or were engaged by the District.⁸

⁸ Bill Gravell is the County Judge for Williamson County; Doyle "Dee" Hobbs, Jr. is the County Attorney for Williamson County; Jeffrey Cottrill is the Deputy Commissioner of Governance & Accountability for the Texas Education Agency; and Tom Maynard is the District 10 member of the State Board of Education. The email

Trustee Weston then forwarded the entire email exchange to 12 individuals, four of whom were individuals with a “roundrockisd.org” email address; the remainder appear to be members of the community having no employment association with the District.⁹ Whether any of these twelve recipients forwarded the email chain to others outside the District is unknown.

Board President Weir responded to Trustee Weston by quoting the policy on “Special Meetings” and explaining the rationale of addressing the mask mandate issue at the September 16, 2021 Board meeting.

The next day, August 28, 2021, Trustee Weston responded to Board President Weir demanding, among other things, that “discrimination and inequitable treatment of Trustee Bone and I in our Special Meeting requests has to stop.” Trustee Weston also stated in her response that the community deserves to know if the Board continues the mask mandate and refuses to schedule a special meeting but her “preference” is not to have to notify the community myself.” Bill Gravel, Dee Hobbs, Jeffrey Cottrill, and Tom Maynard remained on the email thread.

b. Email Containing Attorney’s Legal Advice¹⁰

On August 27, 2021, the same day but shortly after Trustee Weston forwarded Interim GC Wells and Board Counsel Poneck’s legal analysis of the August 26, 2021 Texas Supreme Court ruling to various officials and other individuals outside the District, Interim GC Wells emailed Trustees Weston and Bone (and copied Board Counsel Poneck and Board President Weir) regarding “Attorney client privileged communication re board member authority.” The email contained a legal analysis of certain actions taken by Trustees Weston and Bone.

Mr. Poneck (as Board counsel) and I (as interim General Counsel) have discussed potential legal liability issues that are potentially being created when you speak as board members, but without the authority of the board.

address for Tom Maynard was tom@maynardfortexas.com, and he used the related website (<http://www.maynardfortexas.com/>) for his campaign for State Board of Education. The Texas Education Agency website indicates that Mr. Maynard is the SBOE Member for District 10 and that his term began January 1, 2021.

Mr. Cottrill served as the District’s monitor, who is responsible for reporting to the TEA on the activities of the District’s Board of Trustees and the Superintendent. Subsequently, Mr. Cottrill appointed Dr. David Faltys as the District’s monitor. However, the TEA has reportedly taken the position that the District does not waive the attorney client privilege with respect to any specific document that it produced in response to the monitor’s demand.

⁹ Trustee Weston appeared to forward the email thread to Michelle Austin, Mark Braun, Kathy Irwin, Jacqui Withers, Michelle Evans, “Gina,” Suzy Young, and Joni Castillo. In addition, Trustee Weston forwarded the email thread to Linda Kurio, Katharine Poole, Stephanie Stoebe, and Amanda Grimes, each of whom had a “roundrockisd.org” email address and appear to be elementary school teachers in the District.

¹⁰ See email thread attached hereto as Exhibit 2.

* * * * *

There are several troubling examples of conduct which places you at odds with your duties as Trustees.

* * * * *

Regardless of a Trustee's personal views, Texas Education Code Section 11.151 requires every Trustee to work within the Board structure to act in the best interest of the District. This is why your individual actions are concerning and could potentially place the District at legal risk, as well as placing yourselves at personal legal risk. This is especially concerning given that we are currently under monitoring by the TEA for board member misconduct.

* * * * *

To be clear, only by virtue of your office are you privy to a host of confidential and privileged information.

* * * * *

A clear example of the conflicts your conduct is causing involves the speaking engagement on Sunday that [??] is being hosted by Dustin Clark, who recently filed a lawsuit regarding masks against the District. . . . Based on the adverse legal position of the group hosting this "Town Hall," your unauthorized appearance as Trustees poses several potential legal concerns.

* * * * *

In sum, as you are acting without Board authority, you are acting outside the scope and duties of board members.

Later that evening, Trustee Weston forwarded a copy of Interim GC Wells's email to Tom Maynard, the District 10 member of the State Board of Education, without comment.¹¹

c. Emails Containing Complaints About September 14 Board Meeting¹²

On September 16, 2021, Trustee Weston emailed Board President Weir, Superintendent Azaiez, Jeffrey Yarbrough (the District's Chief of Police), Jim Williby (the District's Assistant Chief of Police), Jeffrey Cottrill,¹³ and Trustee Bone regarding "14 Sep 2021 Legally Problematic Board Meeting." Trustee Weston addressed the authority of the Board President to have citizens removed from Board meetings and suggested the possibility of "1983 Civil Rights violations." Shortly after sending this email, Trustee Weston sent the

¹¹ District 10 includes Williamson and Bell Counties and portions of Travis County on the Interstate-35 corridor and reaches to Freestone County on the northeast corner, Waller County on the southeast corner and Burnet County on the west end. Trustee Weston also forwarded the email to Ryan Fisher, Director of Government Relations, Office of the Texas Attorney General.

¹² See email threads attached hereto as Exhibit 3 and Exhibit 4.

¹³ As noted above, Jeffrey Cottrill is the Deputy Commissioner of Standards and Engagement in the Office of Academics for the Texas Education Agency.

email to herself and blind copied approximately 60 other individuals outside the District with a message, "FYI. Don't reply. You are free to share/forward as you see fit."¹⁴

On September 15, 2021, Trustee Weston emailed Board President Weir, Superintendent Azaiez, Jeffrey Cottrill, Board Counsel Poneck, and Trustee Bone regarding "Possible TOMA violation in 14 Sep 2021 Board Meeting" and regarding her concerns "about the agenda and the public being denied the opportunity to speak on item J1 (Mask Matrix)." Trustee Weston also disputed the assertion on the District website that "public disruption" prevented the Board from addressing the mask requirement. On September 17, 2021, without a response from anyone, Trustee Weston followed-up that email by referring to "bizarre media articles" and noted that one article included the "untrue statement" that "the board chose to end the [September 14] meeting early due to all the commotion and will continue at a later meeting." Shortly after sending this email, Trustee Weston sent the email to herself and blind copied approximately 29 other individuals outside the District without comment beyond, "FYI."¹⁵

Issues

The District engaged the Firm to perform a review of approximately 120 pages of the above-referenced emails and address the following questions:

- 1. Were the emails disseminated by Trustee Weston considered "confidential" under the Public Information Act and accordingly, otherwise excepted from disclosure under the Act?**
- 2. Did Trustee Weston violate any District procedures, District policies, or the law by disseminating "confidential" emails to individuals not affiliated with the District?**
- 3. What options are available to the Board to prevent an individual trustee's disclosure of otherwise internal confidential, attorney-client privileged information outside the District?**

¹⁴ Dustin Clark, Leslie Winters, John Keagy, Shauna Kinningham, April Brinson, Jessica Pryor, Vanessa Wenneker, Lisa Lusby, Stacey Andrewartha, and Glenda Mosley were all blind copied on the email and are all named plaintiffs in Cause No. 21-1187 filed against the District and others on August 9, 2022 in the 425th Judicial District Court of Williamson County, Texas. Five of the plaintiffs did not appear to have been copied.

¹⁵ Dustin Clark, Leslie Winters, and Jessica Pryor were all blind copied on the email and are all named plaintiffs in Cause No. 21-1187 filed against the District and others on August 9, 2022 in the 425th Judicial District Court of Williamson County, Texas. Twelve of the plaintiffs did not appear to have been copied.

Analysis

1. Were the emails disseminated by Trustee Weston considered “confidential” under the Public Information Act and accordingly, otherwise excepted from disclosure under the Act?

The Public Information Act (“PIA”), which was adopted in 1973, is now codified in Chapter 552 of the Texas Government Code. The “policy of open government” expressed in the preamble to the PIA is based on “the principle that government is the servant and not the master of the people.”¹⁶

Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.¹⁷

The PIA applies to every “governmental body,” including a school district board of trustees, and authorizes members of the public to make requests for, and access, government records.¹⁸ And Section 552.021 of the PIA provides that “[p]ublic information is available to the public at a minimum during the normal business hours of the governmental body.”¹⁹

a. Exceptions to Section 552.021

The records held by the government are generally available to the public unless the records fall within at least one of the exceptions to required public disclosure.²⁰ That is, certain information, some of which is described as “confidential” and other information that is not described as “confidential,” is excepted from the general rule that public information is to be made “available to the public.” Accordingly, if a record falls within a PIA exception, the government may withhold the record and the public is not entitled to the record.

¹⁶ TEX. GOV'T CODE § 552.001.

¹⁷ TEX. GOV'T CODE § 552.001.

¹⁸ TEX. GOV'T CODE §§ 552.003(1)(A)(v).

¹⁹ TEX. GOV'T CODE § 552.021.

²⁰ TEX. GOV'T CODE §§ 552.101 – 552.162.

For example, section 552.107(1) – “Exception: Certain Legal Matters” – excepts information from disclosure under Section 552.021 if “it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct.”²¹ And section 552.101 – “Exception: Confidential Information” – provides that “[i]nformation is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Information protected by the attorney-client privilege is considered “confidential by law, either constitutional, statutory, or by judicial decision” and, therefore, is excepted from disclosure under Section 552.101.²²

b. Communications Protected by the Attorney-Client Privilege

The attorney-client privilege is “the oldest and most venerated of the common law privileges of confidential communications.”²³ The attorney-client privilege “exists to protect not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice.”²⁴

“A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to facilitate the rendition of professional legal services to the client: between the client or the client’s representative and the client’s lawyer or the lawyer’s representative.”²⁵

“In the governmental context, the attorney-client privilege applies with ‘special force.’ ‘[P]ublic officials are duty-bound to understand and respect constitutional, judicial and statutory limitations on their authority; thus, their access to candid legal advice directly and significantly serves the public interest.’”²⁶ “The privilege also protects the public fisc when the government is participating in litigation.”²⁷

²¹ See also *Paxton v. City of Dallas*, 509 S.W.3d 247, 252-53 (Tex. 2017).

²² See also *Abbott v. City of Dallas*, 453 S.W.3d 580, 588 (Tex.App. – Austin 2014), *aff’d sub nom. Paxton v. City of Dallas*, 509 S.W.3d 247 (Tex. 2017) (information protected by attorney-client privilege constituted information deemed confidential by law under Section 552.101 of the PIA).

²³ *Paxton*, 509 S.W.3d at 259.

²⁴ *Paxton*, 509 S.W.3d at 260.

²⁵ TEX. R. EVID. 503(b)(1)(A).

²⁶ *Paxton v. City of Dallas*, 509 S.W.3d 247, 260 (Tex. 2017) (quoting *In re Cty. of Erie*, 473 F.3d 413, 418-19 (2d Cir. 2007)).

²⁷ *Paxton*, 509 S.W.3d at 260.

Confidential communications made to facilitate the rendition of professional legal services to the client are protected by the attorney-client privilege.²⁸

In a case involving the City of McKinney's acquisition of property through eminent domain, for example, the Dallas Court of Appeals addressed whether various communications from the city's attorney, including information regarding strategy, were protected by the attorney-client privilege:

- Communication from the city's attorney to city council member, the CEO, and president of city's economic development corporation, and city manager, which contained information regarding strategy, was protected by attorney-client privilege.
- Email from the city's attorney to the CEO, and president of city's economic development corporation, which contained confidential information, was protected by attorney-client privilege.
- Email from the city's attorney to city manager, CEO, and president of city's economic development corporation, city council member, assistant to city manager, and city employee, which discussed legal strategy and attorney's research, was protected by attorney-client privilege.

The court determined that documents and communications that included the city attorney's strategy, confidential information, or legal strategy and research, were protected by attorney-client privilege.²⁹

c. Emails that were confidential by law

The email thread initiated by Trustee Bone contains legal analysis by both Interim GC Wells and Board Counsel Poneck relating to a recent decision by the Texas Supreme Court and is, therefore, information protected by the attorney-client privilege.³⁰ Trustee Weston ultimately added individuals outside the District to the complete email thread, including the confidential opinions and analysis protected by the attorney-client privilege. Those other individuals – the County Judge for Williamson County, the County Attorney for Williamson County, Deputy Commissioner of Governance & Accountability for the Texas Education Agency, and the District 10 member of the State Board of Education – were neither the client nor representatives of the client.

²⁸ TEX. R. EVID. 503(b).

²⁹ *In re JDN Real Estate-McKinney L.P.*, 211 S.W.3d 907, 921 (Tex.App. –Dallas 2006, orig. proceeding).

³⁰ TEX. R. EVID. 503(b); *In re ExxonMobil Corp.*, 97 S.W.3d 353, 361 (Tex. App. –Houston [14th Dist.] 2003, orig. proceeding).

In addition, the August 27 email from Interim GC Wells to Trustees Weston and Bone regarding “Attorney client privileged communication re board member authority” contained confidential advice, opinions, and analysis also protected by the attorney-client privilege.³¹ Trustee Weston forwarded that email to Tom Maynard, who, though a member of the State Board of Education, is not employed by the District.

Here, Interim GC Wells and Board Counsel Poneck are lawyers who represent the District – the client. The individual trustees are not the client; they are representatives of that client.³²

Those emails contained communications protected by the attorney-client privilege and, therefore, fall within the scope of the PIA excepting from disclosure information “considered to be confidential by law, either constitutional, statutory, or by judicial decision.”³³

2. Did Trustee Weston violate any District procedures, District policies, or state law by disseminating “confidential” emails to individuals not affiliated with the District?

a. Operating Procedures³⁴

Under the Texas Education Code, it is solely the responsibility of the Board to create policy for the District.³⁵ It is the District’s Superintendent’s responsibility to manage the District, lead the District, and ensure that the Board’s policies are implemented. The Board’s Operating Procedures supplement Board policy.

By externally circulating confidential emails, emails critical of certain of the Board’s decisions, and emails questioning the statements, conduct, and authority of the Board President, Trustee Weston likely violated several provisions of the District’s Operating Procedures.

Round Rock ISD Board of Trustees Code of Ethics³⁶

- I will respect the majority decision as the decision of the Board.

³¹ Although Interim GC Wells sent the email, the email contained typed signatures of both Interim GC Wells and Board Counsel Poneck.

³² See Rule 1.12(a), Texas Disciplinary Rules of Professional Conduct.

³³ *Abbott v. City of Dallas*, 453 S.W.3d 580, 586 (Tex. App. 2014), aff’d sub nom. *Paxton v. City of Dallas*, 509 S.W.3d 247 (Tex. 2017) (information protected by attorney-client privilege constituted information deemed confidential by law under Section 552.101 of the PIA).

³⁴ Operating Procedures of the Board of Trustees of the Round Rock Independent School District (As Adopted on March 28, 2019) (the “Board Operating Procedures”).

³⁵ See TEX. EDUC. CODE § 11.151; § 11.511; TEX. ATT’Y GEN. OP. KP-0100 (2016).

³⁶ Page 3, Board Operating Procedures.

- I will not disclose information that is confidential by law or that will needlessly harm the District if disclosed.
- I will not encourage community members to work against the district and fellow Trustees.

For example, the August 26 email initiated by Trustee Bone challenges the Board’s August 16, 2021 decision to temporarily mandate masks and its August 24, 2021 decision to narrow the opt-out provision for staff and students. In that email thread, Interim GC Wells and Board Counsel Poncek each responded by providing legal analysis. Trustee Weston indicated her position was to “put this sad and ugly chapter behind us” and that she would “share her [rational and logical view] with everybody who asks me.” Trustee Weston then sent another email to inform them that “I am now looping the WilCo Judge and County Attorney into this thread because I am not being heard.” And as discussed above, that email exchange contained information protected by the attorney-client privilege, which is “information that is confidential by law.” Nevertheless, Trustee Weston sent the email thread to others along with members of the community.

Similarly, the August 27 email from Interim GC Wells sent to Trustees Weston and Bone regarding “Attorney client privileged communication re board member authority” also contained communications protected by the attorney-client privilege. Trustee Weston ultimately forwarded that email to Tom Maynard, who is an individual outside the District.

In addition, Trustee Weston also seemed to encourage community members to work against the District and a decision of the Board by disseminating the above-described September 16 and September 17 emails to dozens of individuals outside the District, including several who were Plaintiffs in pending anti-mask mandate litigation against the District.³⁷

*Individual Board Members*³⁸

Communications.

D. Communications by Email

Trustees who receive email communications and choose to respond in writing shall remind the sender that the Trustee is responding only as an individual and not on behalf of the entire Board of Trustees. The Trustee shall not make any commitment as to the District’s position or response to the concern expressed and shall refer the sender to the Superintendent and the Executive Director of Communications and Community Relations so that the concern can be addressed by the appropriate staff member.

All responses to electronic communications shall be copied to the Superintendent and the Executive Director of Communications and Community Relations.

Inquiries, Complaints to The Board.

³⁷ See footnotes 14 and 15, hereinabove.

³⁸ Page 17, Board Operating Procedures.

- A. Individual Authority for Committing the Board. Trustees as individuals shall not exercise authority over the District, its property, or its employees. Except for appropriate duties and functions of the Board President, an individual member may act on behalf of the Board only with the express authorization of the Board. Without such authorization, no individual member may commit the Board on any issue.

Trustee Weston took a position contrary to the position of the Board in the email exchange initiated by Trustee Bone on August 26, as well as in the emails she authored complaining about the September 14 Board Meeting on September 16 and September 17. While there is nothing wrong with an internal debate, those emails were forwarded to many people outside the District. Moreover, they were sent without copying the Superintendent or the Executive Director of Communications and Community Relations. And although she indicated in the August 26 email that “I am only one trustee” and “[t]his is my opinion,” she did not state that she was sending the email as individual and did not indicate that these were not the views of the entire Board.

In addition, Trustee Weston disseminated the emails that contained confidential information protected by the attorney-client privilege without the express authorization of the Board.

*Community Relations*³⁹

- B. A Trustee retains the right to speak to anyone as an individual but must understand that any comment will likely be interpreted by the listener as being an “official” statement of the Board.

Finally, in Trustee Weston’s September 16 and September 17 emails, she addressed the authority of the Board President to have citizens removed from Board meetings, suggested the possibility of resulting “1983 Civil Rights violations,” and disputed the assertion that “public disruption” prevented the Board from addressing the mask requirement. And while she certainly has the right to voice her opinion internally and to offer her perspective to others outside the District, Trustee Weston needs to comply with Board Operating Procedures and Board Policies. In her emails, which she sent to dozens of people, Trustee Weston presented her position in such a way that the reader may be led to believe that she is somehow speaking on behalf of the Board.

b. Board Policies - (LOCAL)⁴⁰

The Round Rock ISD Board Policy Manual (the “Policy Manual”) compiles the policies that govern the District’s operations. The policies included in the Policy Manual are required by law, required by the Texas Education Agency, recommended by the Texas Association of

³⁹ Page 21, Board Operating Procedures.

⁴⁰ Board Policies of the Board of Trustees of the Round Rock Independent School District

School Boards, or otherwise reflect the Board of Trustee’s statement with respect to a particular policy area.

A (LOCAL) policy preceded by a (LEGAL) policy generally expands on or qualifies the legally referenced provisions. A (LOCAL) policy that is not preceded by a (LEGAL) policy, however, stands alone and “reflect[s] the Board’s intentions in areas not otherwise addressed by law.” “Local policy versions have been created to reflect language common to many districts and determined by the Board to be appropriate for the District.”⁴¹

By externally circulating confidential emails, emails critical of certain of the Board’s decisions, and emails that questioned the statements, conduct, and authority of the Board President, Trustee Weston likely violated certain (LOCAL) provisions of the District’s Policy Manual.

BBF (LOCAL). Board Members - Ethics.

- I will respect the majority decision as the decision of the Board.
- I will not disclose information that is confidential by law or that will needlessly harm the District if disclosed.
- I will not encourage community members to work against the district and fellow Trustees.

See discussion hereinabove regarding violations of the Round Rock ISD Board of Trustees Code of Ethics. In summary, Trustee Weston disseminated emails that contained confidential information to individuals outside the District.

BBFA (LOCAL).

Board Member Abstention Requirements. State law details disclosure and abstention requirements of Board members who have substantial interests in business entities that contract with the District. In addition to requirements specified in BBFA(LEGAL) preceding, no Trustee shall, directly or indirectly:

- (5) Disclose confidential information concerning property, personnel matters, or affairs of the District, including discussions held in closed meeting, without proper legal authorization, or use such information to advance the financial or other private interests of self or others.

Trustee Weston disclosed confidential information related to affairs of the District when she disseminated the August 26 email initiated by Trustee Bone that included a legal analysis of both Interim GC Wells and Board Counsel Poneck to individuals outside the District and when she forwarded Interim GC Wells’s August 27 email regarding “Attorney client privileged communication re board member authority” – which also contained confidential information protected by the attorney-client privilege – to a member of the State Board of

⁴¹ Introduction, Policy Manual.

Education. In each case, Trustee Weston disclosed the confidential information to individuals outside the District without proper legal authorization.

BED (LOCAL). Board Meetings - Public Participation

Disruption. The Board shall not tolerate disruption of the meeting by members of the audience. If, after at least one warning from the presiding officer, any individual continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the individual removed from the meeting.

This (LOCAL) policy addresses issues raised by Trustee Weston in her September emails containing complaints about the events that transpired at the September 14 Board meeting as well as the characterization of that meeting, which she then circulated externally to numerous members of the community.

c. Board Policies - LEGAL⁴²

The (Legal) set of “policies” is simply a reiteration of the law. The (LEGAL) policies are not policies adopted by the Board; rather, they are a statement of the law. To the extent the Policy Manual has not been updated to reflect the current state of the law, “[c]urrent law will supersede any out-of-date (LEGAL) policy.”⁴³

The (LEGAL) policies track the “sources of authority defining the legal context for local school district governance and management,” including language of the U.S. and Texas Constitutions; federal and state statutes, including the Texas Education Code; attorney general opinions; [and] the Texas Administrative Code.⁴⁴

BBE (LEGAL). Board Members - Authority

Board Authority

The trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. TEX. EDUC. CODE 11.151(b)

The board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551 (Open Meetings Act), at which a quorum of the board is present and voting. Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. TEX. EDUC. CODE 11.051(a-1)

Access to Information

Offenses Regarding Records and Information. A person commits an offense if the person:

⁴² Board Policies of the Board of Trustees of the Round Rock Independent School District

⁴³ Introduction, Policy Manual.

⁴⁴ Introduction, Policy Manual.

2. Distributes information considered confidential under the terms of Government Code Chapter 552.

TEX. GOV'T CODE 552.351, .352

BBE (LOCAL). Board Members - Authority

Board Authority. The Board has final authority to determine and interpret the policies that govern the schools and, subject to the mandates and limits imposed by state and federal authorities, has complete and full control of the District. Board action shall be taken only in meetings that comply with the Open Meetings Act. [See BE(LEGAL)]

Transacting Business. When a proposal is presented to the Board, the Board shall hold a discussion and reach a decision. Although there may be dissenting votes, which are a matter of public record, each Board decision shall be an action by the whole Board binding upon each member.

Individual Authority for Committing the Board. Board members as individuals shall not exercise authority over the District, its property, or its employees. Except for appropriate duties and functions of the Board President, an individual member may act on behalf of the Board only with the express authorization of the Board. Without such authorization, no individual member may commit the Board on any issue. [See BDAA]

To the extent the Board determines to distribute any of the emails disseminated by Trustee Weston or the confidential information contained therein, it would have to be authorized by majority vote. "Unless authorized by the board, a member of the board may not, individually, act on behalf of the board." Trustee Weston, however, acted on her own and without authorization.

A person violates BBE (LEGAL), which references TEX. GOV'T CODE 552.352, by distributing information considered confidential under the terms of the PIA. As discussed hereinabove, Trustee Weston disclosed information protected by the attorney-client privilege and considered confidential under the PIA when she distributed the August 26 email initiated by Trustee Bone that included legal analysis of both Interim GC Wells and Board Counsel Poneck to individuals outside the District. She also disclosed information protected by the attorney-client privilege and considered confidential under the PIA when she forwarded Interim GC Wells's August 27 email to a member of the State Board of Education.

A violation of TEX. GOV'T CODE 552.352 also constitutes official misconduct.

BE (LEGAL). Board Meetings.

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. A majority vote is generally determined from a majority of those present and voting, excluding abstentions, assuming a quorum is present. *Texas Education Code 11.051(a-1); Atty. Gen. Op. GA-689 (2009).*

As noted in BBE (LEGAL), to the extent the Board determines to distribute any of the emails disseminated by Trustee Weston or the confidential information contained therein, it would have to be authorized by majority vote. That is, the Board may act only by majority vote. Unless authorized by the board, therefore, neither Trustee Weston nor any other individual

trustee could take that action. Trustee Weston, however, acted on her own and without authorization.

GBA (LEGAL). Public Information Program - Access to Public Information.

Right of Access to Public Information

Public information is available, at a minimum, to the public during a district's normal business hours. TEX. GOV'T CODE 552.021

Confidential Information Under the Public Information Act or Other Law.

A person commits a misdemeanor offense if the person distributes information considered confidential under the terms of the PIA. A violation of this section also constitutes official misconduct. TEX. GOV'T CODE 552.352.⁴⁵

Information Excepted from Disclosure

Confidential by Law. Information is excepted from public disclosure if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. TEX. GOV'T CODE 552.101

Information Relating to Litigation. Information is excepted from public disclosure if it is information relating to litigation of a civil or criminal nature to which a district is, or may be, a party or to which an officer or employee of the district, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the district's public information officer receives the request. TEX. GOV'T CODE 552.103

Attorney-Client Information. Information is excepted from public disclosure if it is information a district's attorney is prohibited from disclosing because of a duty to the district under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. TEX. GOV'T CODE 552.107

A person violates GBA (LEGAL), which references TEX. GOV'T CODE 552.352, by distributing information considered confidential under the terms of the PIA. As discussed hereinabove, Trustee Weston disclosed information protected by the attorney-client privilege and considered confidential under the PIA when she distributed the August 26 email initiated by Trustee Bone that included legal analysis of both Interim GC Wells and Board Counsel Poneck to individuals outside the District and when she forwarded Interim GC Wells's August 27 email to a member of the State Board of Education. Further, information relating to litigation, which existed at the time Trustee Weston distributed the emails, should also be considered confidential and not be disclosed.

⁴⁵ TEX. GOV'T CODE 552.352. Distribution or Misuse of Confidential Information. (a) A person commits an offense if the person distributes information considered confidential under the terms of this chapter . . . (b) An offense under this section is a misdemeanor punishable by: (1) a fine of not more than \$1,000; (2) confinement in the county jail for not more than six months; or (3) both the fine and confinement. (c) A violation under this section constitutes official misconduct.

A violation of GBA (LEGAL), which references TEX. GOV'T CODE 552.352, also constitutes official misconduct.

BBC (LEGAL). Board Members - Vacancies and Removal From Office

Involuntary Removal from Office

Removal by Petition and Trial.

Reasons for Removal. A board member may be removed from office for: . . . (2) "Official misconduct," which means intentional, unlawful behavior relating to official duties by a board member entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a board member to perform a duty imposed on the board member by law. *Tex. Const., Art. V, Sec. 24; Local Gov't Code 87.011, .012(14), .013.*

As noted above, a violation of GBA (LEGAL) constitutes official misconduct. If Trustee Weston violated GBA (LEGAL) by distributing information considered to be confidential under the terms of the PIA, that violation may be considered official misconduct. Moreover, a violation of GBA (LEGAL) could, therefore, be a reason for removal.

3. What options are available to the Board to prevent an individual trustee's disclosure of otherwise internal confidential, attorney-client privileged information outside the District?

a. Limiting trustee's access to records reflecting attorney-client privileged communications.

As a preliminary matter, the Board should consider limiting the ability of individual trustees to seek and obtain legal opinions from the District's attorneys. An attorney for an organization represents only the organizational entity, not its individual officers and employees. Accordingly, no individual trustee has the right to demand that the District's attorneys respond to legal questions absent such authority given to an individual trustee by Board Policy and Operating Procedures. To avoid situations where an attorney for the District is required to provide legal advice regarding the District's legal position on any given topic to a trustee who may willfully disseminate such information outside the District and potentially compromise the District's position in pending or contemplated litigation, the District should limit the authority to seek such advice to the Board President. The Board President may then determine how the advice shall be communicated to the remainder of the Board.

Section 11.1512(c) of the Texas Education Code grants trustees, "when acting in the member's official capacity . . . [access] to information, documents, and records maintained by the district[.]"⁴⁶ A trustee might argue that this statute gives the trustee the right to review communications between the Board President and the District's attorney. The statute

⁴⁶ TEX. EDUC. CODE § 11.1512(c) (emphasis added).

specifically states, however, that the District may withhold a record that “is excepted from disclosure or is confidential under” the Public Information Act.

As previously discussed, attorney-client communications are “confidential” within the meaning of the PIA. Though the District’s attorney is providing advice to the District itself – through the Board President – and the trustee is a member of the board, the District’s attorney is not providing individual representation to the trustee and the District may – through its authorized representative, here, the Board President – determine to withhold the record from an individual trustee. This is especially true when the individual trustee is not acting in the trustee’s “official capacity.” Whether a trustee is acting in the trustee’s official capacity or individual capacity is often a gray area, but where the trustee has shown a past history, or present intent, of disseminating attorney-client communications to the District’s adversaries in litigation (presumably with the intent to undermine or castigate the District’s legal position), the trustee is very likely acting in the trustee’s individual capacity, i.e., the trustee’s individual desire to negatively affect the District’s official legal position, as approved by the majority of the board. Accordingly, in the Firm’s view, the District may restrict a trustee’s access to attorney-client privileged records where those records are “confidential” under the PIA or where the trustee is seeking the records in the trustee’s individual capacity.

b. Excluding trustee from executive session where attorney-client advice is sought on a topic and the trustee has previously disseminated attorney-client communications to the District’s adversaries in litigation.

As discussed above, while the District may legally withhold certain attorney-client records from individual trustees, this does not address the risk that a trustee may attend an executive session where legal advice is orally sought and obtained, and the trustee then disseminates that advice in a manner designed to contravene the District’s legal position. Trustees have a right to attend both open and closed sessions of the board and excluding a trustee from any portion of a meeting should be approached with caution.

The Texas Attorney General, however, has stated that a school board may exclude from closed session another trustee who has instigated litigation against the other board members when the closed session was for the purpose of discussing the litigation.⁴⁷ As the Attorney General noted, “[w]hen one member’s disagreement with the board leads him to invoke the adversary system of justice against the rest of the board, there is little likelihood that a composite judgment on the matter can be reached through discussion.”⁴⁸ “Admitting the plaintiff board member to such attorney-client conferences would moreover undermine the common law and statutory protection given attorney-client communications and

⁴⁷ TEX. ATT’Y GEN. OP. No. JM-1004.

⁴⁸ *Id.*

compromise the efficacy of the adversary system of justice.”⁴⁹ The Attorney General stressed, however that this ruling was based solely on the facts before it.⁵⁰

To the Firm’s knowledge, neither the Attorney General or the courts have addressed a situation where the excluded trustee is not a party to the litigation being discussed in closed session, but rather has previously expressed a negative view of the district’s litigation position and, moreover, previously exposed attorney-client communications on the topic of the litigation to the school district’s litigation adversaries. The rationale contained in JM-1004 would arguably apply to this situation. The most conservative approach, however, would be to seek an Attorney General opinion on the topic before making the decision to exclude the trustee from closed session.

c. Censure

Under the Board’s Operating Procedures, the Board could, of course, move to censure the offending trustee for disclosing confidential information. While this may have the effect of preventing future disclosures, it could end up with the opposite result; in other words, it may simply aggravate the situation.

The Firm, however, is without sufficient information about the Board and individual trustees and, therefore, is not in a position to address that issue. The Firm notes, however, that if censure is pursued, the Board should be careful to follow its existing Operating Procedures, as the trustee in question has previously initiated litigation when censured.

Moreover, if censure is initiated, the Firm recommends that the censure take the form of an oral or written reprimand as opposed to actions that attempt to “strip” the trustee of aspects of the trustee’s office. In *Houston Community College Sys. v. Wilson*, the United States Supreme Court recently stated that governing bodies may publicly censure one of their own members without violating the First Amendment when the censure is simply a criticism of the member’s conduct.⁵¹ The Court noted that the censure was not accompanied by any action that prevented the member from performing his job, denied him any privilege of his office, or otherwise defamed him.⁵² It expressed no opinion on whether a censure accompanied by these more tangible detriments would survive First Amendment scrutiny. Accordingly, the most conservative approach would be to limit censure to a reprimand, or critique, of the trustee’s conduct.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ 2022 WL 867307 (U.S. 2022).

⁵² *Id.* at *6.

Exhibit 1

Subject: Re: SCOTX Ruling
Date: Fri, 27 Aug 2021 15:09:54 -0500
From: Danielle Weston <danielle_weston@roundrockisd.org>
To: Hafedh Azaiez <hafedh_azaiez@roundrockisd.org>, Amy Weir <amy_weir@roundrockisd.org>
Cc: Doug Poneck <dponeck@escamillaponeck.com>, Jenny Wells <jennifer_wells@roundrockisd.org>, "Mary Bone roundrockisd.org" <mary_bone@roundrockisd.org>, Bill Gravell <Bgravell@wilco.org>, Doyle Hobbs <dhobbs@wilco.org>, "Cottrill, Jeffrey" <jeffrey.cottrill@tea.texas.gov>, tom@maynardfortexas.com
Message-ID: <CAM7tBgS-d4fZm7zJ-6VR-_Um0EDOR4fkT0fkHnvOG+bX2TYUGg@mail.gmail.com>
MD5: 5883b5a43af83b77c849ff9d514c5f55
Attachments: Williamson County Attorney letter 8.26.2021.pdf

(PLEASE DISREGARD THE MESSAGE I JUST SENT. IT WAS NOT COMPLETE. THIS ONE IS COMPLETE)

Dr Azaiez and President Weir,

I haven't heard back from you. I am now looping the WilCo Judge and County Attorney into this thread because **I am not being heard**. And I have attached the WilCo County Attorney letter on this topic dated 8/26 which makes Williamson County's position clear. And I am looping SBOE member, Tom Maynard, in on this email out of sheer concern for RRISD as I seek to protect the district from going off of a legal cliff.

At 2:28pm yesterday (8/26) I told you we have two options on the table at this point. You can scroll up to see it and for ease, I have added it here between the two lines:

-
- We can make this easy and back off of the challenging of the governor's authority given today's SCOTEX ruling or we can make this hard.
 - The opt out motion remains in effect in RRISD.
 - The premise of the 24 Aug Mask Wars Part 2 meeting was clearly stated in the meeting after I asked. A "letter issued by the Travis County Commissioners Court on 17 Aug".
 - Now we have a SCOTEX ruling (finally!) which the TXAG is publicly asserting has a state wide impact.
 - And we have Doug citing some other case that he says is still pending and has a state wide impact that we have NEVER discussed as a board or considered to impact possible action.
 - Let's not forget that Tuesday night's agenda and the successful motion that emerged from it are highly problematic for reasons I have already emailed all of you on. That motion currently stands on very shaky ground.
 - As I see it, we now have two choices:
 - The **first choice** is packed with wisdom and is my preference. End the madness. Acknowledge the authority of the Governor, stop wasting time, money and manpower resisting. Allow our community to heal.
 - The **second choice** is to schedule a Mask Wars Part 3 meeting to deliberate the SCOTEX decision and consider possible action. The agenda item should read: *Given the conflicting state and local threats of litigation and in light of the 8/26 SCOTEX ruling, the board will discuss the current legal landscape and take possible action. The board will also discuss the legal landscape of the different municipalities within RRISD as well as of the entire district and any "health" or "medical" exceptions on this as it relates to masks.* And please do not omit "trustee comments" and requests for future agenda items at the end of the agenda. The agenda needs to be written to address concerning legal advice we were given in the 8/24 meeting including at the 2:46:10 mark when we were told that the SCOTEX had issued a "decision on school board cases" (that is incorrect, there has been no decisions on school board cases) as well as the concerning advice at the 2:46:14 mark from counsel that TEA's Public Health Guidance somehow impacts GA-38's validity. TEA has assured me they are not challenging the authority of the Governor. Regarding that last concerning legal guidance we received (re: TEA), I am glad Jeff Cottrill is on this thread.
-

Per our policy (BE Local), two trustees may call a special meeting. In the 24 Aug 2021 Board meeting at the 2:43:00 mark Pres Weir stated that that meeting was being held because Trustees Harrison & Xiao requested it. At another point in the meeting Pres Weir asserted that Trustee Harrison sending her a document from Travis County prompted her (Harrison) to request the 24 Aug 2021 meeting. Pres Weir also mentioned at some point in the meeting that Dr Azaiez also requested the meeting. Though Azaiez weighing in with a request on the exact same topic and at the exact same time that Harrison and Xiao made the request is an interesting detail to note, it is not relevant (according to our policy BE Local) to our policy for calling special meetings.

If you do not choose the **first choice** I proposed (my preference), then we are back to the **second choice**, the special meeting request I made 2 hours after our 24 Aug 2021 meeting adjourned via email to Pres Weir and Dr Azaiez and I am adding that the 8/26 SCOTEX ruling (which did not exist at the time of the 8/24 meeting) presents an urgency to the matter. Pres Weir has already denied me this meeting (after Mary seconded the request) in writing. She stated it can be just an "agenda item in the 16 Sep meeting. THAT IS NOT ACCEPTABLE. I will not tolerate being treated differently than my fellow trustees. We are all equals. And I expect my meeting to be called with the same swiftness as the special meeting that Trustees Xiao and Harrison requested. I have cleared my calendar for Monday (8/30), Tuesday (8/31) and Wednesday (9/1) for this meeting to be held.

Trustee Bone seconded my meeting request the first time and I expect her to do so here again. She is copied on this email. She may have additional logistical requests for this agenda.

Please run the agenda by Trustee Bone and I for approval prior to posting it today or tomorrow for the meeting which I expect to take place on Monday, Tuesday or Wednesday of next week.

Danielle Weston

On Fri, Aug 27, 2021 at 2:42 PM Danielle Weston <danielle_weston@roundrockisd.org> wrote:

Dr Azaiez and President Weir,

I haven't heard back from you. I am now looping the WilCo Judge and County Attorney into this thread because **I am not being heard**. And I have included the WilCo County Attorney letter on this topic dated 8/26 which makes Williamson County's position clear. At 2:28pm yesterday (8/26) I told you we have two options on the table at this point. You can scroll up to see it and for ease, I have added it here:

- We can make this easy and back off of the challenging of the governor's authority given today's SCOTEX ruling or we can make this hard.
- The opt out motion remains in effect in RRISD.
- The premise of the 24 Aug Mask Wars Part 2 meeting was clearly stated in the meeting after I asked. A "letter issued by the Travis County Commissioners Court on 17 Aug".
- Now we have a SCOTEX ruling (finally!) which the TXAG is publicly asserting has a state wide impact.
- And we have Doug citing some other case that he says is still pending and has a state wide impact that we have NEVER discussed as a board or considered to impact possible action.
- Let's not forget that Tuesday nights agenda and the successful motion that emerged from it are highly problematic for reasons I have already emailed all of you on. That motion currently stands on very shaky ground.
- As I see it, we now have two choices:
 - The first choice is packed with wisdom and is my preference. End the madness. Acknowledge the authority of the Governor, stop wasting time, money and manpower resisting. Allow our community to heal.
 - The second choice is to schedule a Mask Wars Part 3 meeting to deliberate the SCOTEX decision and consider possible action. The agenda item should read: Given the conflicting state and local threats of litigation and in light of the 8/26 SCOTEX ruling, the board will discuss the current legal landscape and take possible action. The board will also discuss the legal landscape of any "health" or "medical" exceptions on this as it relates to masks. And please do not omit "trustee comments" and requests for future agenda items at the end of the agenda.

Per BE Local, two trustees may call a special meeting. In the 24 Aug 2021 Board meeting at the 2:43:00 mark Pres Weir stated that that meeting was being held because Trustees Harrison & Xiao requested it. At another point in the meeting Pres Weir asserted that Trustee Harrison sending her a document from Travis County prompted her (Harrison) to request the 24 Aug 2021 meeting. Pres Weir also mentioned at some point in the meeting that Dr Azaiez also requested the meeting. Though that is an interesting request, it is not relevant (according to our policy) to requests for special meetings.

Thus, I am back to the special meeting request I made 2 hours after our 24 Aug 2021 meeting adjourned via email to Pres Weir and Dr Azaiez.

I AM REQUESTING A SPECIAL MEETING

On Thu, Aug 26, 2021 at 7:47 PM Danielle Weston <danielle_weston@roundrockisd.org> wrote:

I am only one trustee. This is my opinion. If I had to choose between hitching my wagon at this point to the Travis County Judge or the attorney general of Texas, I choose the attorney general of Texas. I seek to protect our districts resources...both money and manpower. I do not believe that the TX Supreme Court it's going to change its position when the Travis County order comes up for consideration and all of a sudden decide that the governor does not have the power to levy executive orders. I believe it's time to put this sad and ugly chapter behind us and move forward with addressing the learning loss of our students and return our staff to the tremendous job that lies ahead for them. I will not keep this rational and logical view to myself. I will share it with everybody who asks me.

Danielle Weston

On Thu, Aug 26, 2021 at 6:25 PM Hafedh Azaiez <hafedh_azaiez@roundrockisd.org> wrote:

Good afternoon Trustee Weston,

Thank you for letting me know.

Respectfully,

Dr. Hafedh Azaiez

Superintendent of Schools



Dr. Hafedh Azaiez
Superintendent of Schools
Round Rock ISD
[1311 Round Rock Ave.](#)
[Round Rock, TX 78681](#)
512-464-5022 office
512-464-5055 fax

Connect with Round Rock ISD:
Twitter [@RoundRockISD](#)
Facebook.com/RRISD

On Thu, Aug 26, 2021 at 2:47 PM Danielle Weston <danielle_weston@roundrockisd.org> wrote:

Someone just called me and informed me that Dr Azaiez' secretary is communicating RRISD's "official position" in reaction to today's SCOTEX ruling to callers to his office. Apparently she is asserting that today's ruling has ZERO impact on RRISD policy.
What the heck?!?

We are out of control. Please stop. This ruling DOES impact RRISD. It is crucial we lead and get this right. I can't stay silent if RRISD continues to down a rogue path.

-dw

On Thu, Aug 26, 2021 at 2:36 PM Doug Poneck <dponeck@escamillaponeck.com> wrote:

If the Board's recent action conflicts with the Board's action from last week, then the more recent action controls. So, the original opt-out language has been limited by the more recent action.

Sent from my iPhone

On Aug 26, 2021, at 3:28 PM, Danielle Weston <danielle_weston@roundrockisd.org> wrote:

Is that a yes or no Doug?

Amy,

We can make this easy and back off of the challenging of the governor's authority given today's SCOTEX ruling or we can make this hard.

The opt out motion remains in effect in RRISD.

The premise of the 24 Aug Mask Wars Part 2 meeting was clearly stated in the meeting after I asked. A "letter issued by the Travis County Commissioners Court on 17 Aug".

Now we have a SCOTEX ruling (finally!) which the TXAG is publicly asserting has a state wide impact. And we have Doug citing some other case that he says is still pending and has a state wide impact that we have NEVER discussed as a board or considered to impact possible action.

And we have Doug citing some other case that he says is still pending and has a state wide impact that we have never discussed as a board or considered to impact possible action.

Let's not forget that Tuesday nights agenda and the successful motion that emerged from it are highly problematic for reasons I have already emailed all of you on. That motion currently stands on very shaky ground.

As I see it, we now have two choices:

The first choice is packed with wisdom. End the madness. The second choice is to schedule a Mask Wars Part 3 meeting to deliberate this case that Doug has now brought to our attention, deliberate the SCOTEX decision and consider possible action.

Let me know which way you decide to go on this. My preference would be choice number one.

-dw

On Thu, Aug 26, 2021 at 1:16 PM Doug Poneck <dponeck@escamillaponeck.com> wrote:

The general rule is that, in the event of a conflict between two Board actions, the one approved later in time is controlling as it is the Board's last word. There is no specific requirement to rescind a prior action, though rescission is an option if, for example, a Board wishes to completely undo a prior action. However, approving modifications or approving a new motion that has the effect of modifying a prior action (e.g. placing stricter limitations on a prior rule) is also permissible. Finally, reconsideration is yet a different motion used during the same Board meeting where a Board approved an action, and on second thought, the Board wishes to reconsider the action and either undo it or modify it at the same meeting.

Sent from my iPhone

On Aug 26, 2021, at 1:42 PM, Mary Bone <mary_bone@roundrockisd.org> wrote:

Doug,

Thanks.

Can you advise if my motion on the 16th for Opt Out of ALL Mask mandates is still on the books since it was not rescinded nor reconsidered.

It was my motion so I take high interest in your reply.

Best Regards
Mary

On Thu, Aug 26, 2021, 12:23 PM Doug Poneck <dponeck@escamillaponeck.com> wrote:

The Supreme Court has not yet ruled on the Governor's motion for emergency relief for the Southern Center TRO, which is a statewide order enabling school districts to block the Governor's ban. Until the Supreme Court rules on this TRO, this is still in place. The Supreme Court could have addressed this TRO as well in its ruling, but it did not. So, we need to see how this TRO is addressed by the Supreme Court. Finally, the AG's view is not definitive or the final word on these issues as the AG is representing a party in the litigation.

Sent from my iPhone

On Aug 26, 2021, at 1:10 PM, Danielle Weston <danielle_weston@roundrockisd.org> wrote:

The torture of our community must come to an end now.

The SCOTEX took up the first 2 challenges (Dallas and Bexar Counties) local TRO's and referred the other 80+ to lower courts. This is all documented. Today's SCOTEX ruling has a statewide impact. I have been in touch with the TXAG office seeking clarity as a private citizen. There is no ambiguity. Lower courts are still free to challenge the authority of the Governor. Good luck with that.

Teachers from 3 campuses in 3 different learning communities reached out to me last night telling me that large groups of teachers on their campuses are notifying principals today that they are not complying with RRISD's mask mandate. Mary and I are not complying. You are not going to be able to force this. The gig is up.

Please let our community heal and get back to focusing on meeting the educational needs of children!!!!!!!!!!

Danielle Weston

On Thu, Aug 26, 2021 at 12:01 PM Jenny Wells <jennifer_wells@roundrockisd.org> wrote:

The decision is in the Dallas County and Bexar County cases, in which Abbott argued that the governor, not individual cities or counties, acts as the commander in chief. I am not sure if this decision would extend to ISDs and somehow moot out the pending Travis County cases. I realize that AG Paxton is taking the position that it applies to all entities including school districts, but I'm not sure that was the intent of the Supreme Court since the issue before it in this case was only cities and counties.

Jenny

On Thu, Aug 26, 2021 at 11:40 AM Mary Bone <mary_bone@roundrockisd.org> wrote:

As Trustee Weston and I predicted the SCOTX is upholding the Governor's Mask Mandate. It is time for us to put this issue to rest and apologize to our community for the ill timed meeting Monday when we knew this ruling was coming.

Please advise on next steps. Do we need a meeting? If so please take this as an official request.

Best Regards
Mary Bone

First Assistant
Corby Holcomb
Criminal Division Chief
Laura Gorman
Civil Division Chief
Ariane Flores
Director Juvenile Division
Michael Cox
Director Family Justice
Elizabeth Watkins
(Board Certified Child Welfare Law)

DEE HOBBS

COUNTY ATTORNEY

405 M.L.K. Street #7
Georgetown, Texas 78626

General Counsel - Jason Nassour



Office Administrator
Stephanie Lloyd
Chief of Staff
Peggy Vasquez
Chief Investigator
Rudy Gonzalez
Evidence Director
Michael Etheridge
Victim Services Director
Sara Bill

Phone (512) 943-1111 • www.wilco.org/countyattorney • Fax (512) 943-1120

August 26, 2021

UPDATE ON STATUS OF LAW REGARDING MASK MANDATES IN WILLIAMSON COUNTY, TEXAS

The County Attorney's office has received several inquiries regarding local governing body's ability to mandate masks in violation of the Governor's executive order.

Status of Law in Williamson County, Texas: Governor's executive order is still controlling law and any mask mandates by local governing bodies are illegal.

Media and the public at large are misconstruing the actions of the supreme court. So far, the actions of the supreme court have been case specific in each instance where an order has been signed. These case specific rulings are not something that can be relied upon by the state of Texas or any sub or quasi-governmental entity therein.

However, with that said, the supreme court states in dicta that the real question being sought by people is not whether people should wear masks or whether the government should require masks to be worn. Rather, the question being asked by the courts and ultimately to be decided upon by the supreme court is which government officials have the legal authority to decide what the government's position on such a question will be.

The supreme court in every case related to this matter is protecting the status quo until it can make a final ruling. The supreme court has further stated the "status quo" pending a final ruling is gubernatorial oversight of such decisions at both the state and local level and it should stay that way at least until such time as a final ruling can be made by the supreme court.

Don't let the media continue to foster false statements and bend reality to fit a political narrative. Until such time as the supreme court interprets the governor's decision to be unlawful or otherwise unconstitutional, his executive order is the law of the land.

If you wish to make a formal complaint against a local governing body for instituting a mask mandate in violation of the current law, please submit in writing to the following email address: maskmandatecomplaints@wilco.org. This information will go directly to the Williamson County Attorney's office. You can also make complaints with the Texas Attorney General's Office through their website TexasAttorneyGeneral.gov.

Once a formal complaint is received in this office research will be done as to the applicability of any criminal statute that may apply to an unlawful mask mandate. This may include the necessity of seeking an Attorney

General opinion regarding applicable portions of the referenced statutes. Please understand that I do not believe any mask mandates by local school boards should in anyway place teachers or local administrators in harm's way for a criminal complaint. These employees of a school district would merely be a component of the actions of their school board members. Meaning, the complaints – if any – should be directed to the decision makers on the local governing body. The only time a teacher or administrator should be named is if the governing body did not mandate masks, but instead an individual teacher or administrator, acting on their own required the masks.

The County Attorney's office is not an investigative agency. Those sending information to the email address listed may at some point be forwarded to their local law enforcement agency to file the complaint. The above email address is intended to enlighten this office as to what is occurring in our local communities and see if there are any potential violations of the law. If this office determines that a law potentially was violated (legal sufficiency) then a report of the facts to prove that may be needed to be reported to law enforcement by the individual. If you wish to file a criminal complaint directly with your local law enforcement, feel free to make that decision. I do not want to add an additional step; however, this is a unique situation that I wish to understand better from a criminal legal perspective and any information from the community will be helpful.

Respectfully,

A handwritten signature in black ink that reads "Dee Hobbs". The signature is written in a cursive style and is positioned above a horizontal line.

Dee Hobbs
County Attorney
Williamson County, Texas

See Attachment

IN THE SUPREME COURT OF TEXAS

No. 21-0720

IN RE GREG ABBOTT, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE
STATE OF TEXAS

ON PETITION FOR WRIT OF MANDAMUS

ORDERED:

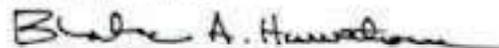
1. Relator's emergency motion for temporary relief, filed August 23, 2021, is granted. The order on Appellees' Rule 29.3 Emergency Motion for Temporary Order to Maintain Temporary Injunction in Effect Pending Disposition of Interlocutory Appeal, filed August 17, 2021, in Cause No. 04-21-00342-CV, styled *Greg Abbott, in his official capacity as Governor of Texas v. City of San Antonio and County of Bexar*, in the Court of Appeals for the Fourth Judicial District, dated August 19, 2021, is stayed pending further order of this Court.

2. As we previously held in staying the trial court's temporary restraining order in the underlying case, the court of appeals' order alters the status quo preceding this controversy, and its effect is therefore stayed pending that court's decision on the merits of the appeal. See *In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004). This case, and others like it, are not about whether people should wear masks or whether the government should make them do it. Rather, these cases ask courts to determine which government officials have the legal authority to decide what the government's position on such questions will be. The status quo, for many months, has been gubernatorial oversight of such decisions at both the state and local levels. That status quo should remain in place while the court of appeals, and potentially this Court, examine the parties' merits arguments to determine whether plaintiffs have demonstrated a probable right to the relief sought.

3. The petition for writ of mandamus remains pending before this Court.

FILE COPY

Done at the City of Austin, this Thursday, August 26, 2021.



BLAKE A. HAWTHORNE, CLERK
SUPREME COURT OF TEXAS

BY CLAUDIA JENKS, CHIEF DEPUTY CLERK

Exhibit 2

Subject: Email converted with Ald4Mail v4.7 (Build 307) (Trial Mode removes subject)
Date: Fri, 27 Aug 2021 20:08:36 -0500
From: Danielle Weston <danielle_weston@roundrockisd.org>
To: Tom Maynard <tom@maynardfortexas.com>
Message-ID: <CAM7tBgQbD4x13PPa03AyOE5c2a2yCY6bCZcAzORqj00JnryZBg@mail.gmail.com>
MDS: f198c58de8305bc90b71dc19365e2bc1

----- Forwarded message -----

From: Jenny Wells <jennifer_wells@roundrockisd.org>
Date: Fri, Aug 27, 2021 at 6:16 PM
Subject: Attorney client privileged communication re board member authority
To: Danielle Weston <danielle_weston@roundrockisd.org>, Mary Bone <mary_bone@roundrockisd.org>
CC: Amy Weir <amy_weir@roundrockisd.org>, Doug Poneck <dponeck@escamillaponeck.com>

Dear Trustees Bone and Weston,

Mr. Poneck (as Board counsel) and I (as interim General Counsel) have discussed potential legal liability issues that are potentially being created when you speak as board members, but without the authority of the board. You have taken several actions over the past few months in which you position yourself as an official but apart from the Board of Trustees, but there is no legal basis for you to do this. Even though you may claim that you are speaking as individuals and not on behalf of the District, you give the appearance that you are speaking as representatives of the Board. You have not sought nor received authority to speak for the Board or on behalf of the District. Furthermore, the Board has not authorized you to share any privileged, private, or confidential information.

There are several troubling examples of conduct which places you at odds with your duties as Trustees. For instance, though you represent yourselves as speaking as individuals, you also identify yourselves as members of the Round Rock ISD Board of Trustees, even though you did not have authority from the Board of Trustees to speak as a representative. You have issued "press releases" in April and July concerning official actions and votes taken by the Board in which you claim illegality or wrongdoing. As previously stated to you both, decisions of the Board rest with the entire board, even though some members may dissent. Trustee Weston gave a presentation entitled "RRISD Update" at a North Austin Republican meeting in July which appeared to be an official update on behalf of RRISD, but including information such as having a "referendum on the new Superintendent" and seemed to ask for campaign donations for the upcoming election. And it has recently come to our attention that you both have agreed to participate in an upcoming event advertised as a "RRISD Parent Q&A" or "Town Hall" hosted by a group called "Round Rock Parent Coalition." The group that is hosting the "Town Hall" are not officially associated with RRISD, and in fact, have publicly announced that they are suing the District and are raising funds to pay the attorneys' fees.

Regardless of a Trustee's personal views, Texas Education Code Section 11.151 requires every Trustee to work within the Board structure to act in the best interest of the District. This is why your individual actions are concerning and could potentially place the District at legal risk, as well as placing yourselves at personal legal risk. This is especially concerning given that we are currently under monitoring by the TEA for board member misconduct.

To be clear, only by virtue of your office are you privy to a host of confidential and privileged information. The opinions and information you are sharing through your press releases and speaking engagements are based on, and solely sought because of, information you are receiving as an elected official in your role as a Trustee. When you speak about District business, sharing information you only have because you are a Trustee, you may be misusing your office to promote other interests or to give the appearance that you are speaking on behalf of the Board. A Trustee's official duty, however, is not to use the office to gain inside information to share with third parties at the District's expense. Instead, the Trustee's duty is to serve on a Board with multiple statutory

responsibilities including (i) voting on matters that fiscally impact the District, (ii) serving as a impartial tribunal that considers and rules on grievances and complaints, and (iii) making decisions regarding legal matters that can have serious legal implications for the District.

Unfortunately, these are not merely general concerns but real problems. A clear example of the conflicts your conduct is causing involves the speaking engagement on Sunday is being hosted by Dustin Clark, who recently filed a lawsuit regarding masks against the District. He and other named plaintiffs also filed multiple grievances against the District regarding masks, based in part on assertions of illegalities in your press releases. They continue to threaten litigation. As members of the Board, you would be involved in making decisions about legal issues or grievances that this same group is inviting you to discuss. Based on the adverse legal position of the group hosting this "Town Hall," your unauthorized appearance as Trustees poses several potential legal concerns, including but not limited to:

- Violations of privacy rights of individuals whose information has been disclosed in executive session
- Breach of attorney-client privileged communications without authorization
- Violations of Chapter 11, Subchapter D of the Education Code (for which we are currently being monitored by TEA)
- Violations of the penal code, including misuse of official information, abuse of official capacity, bribery, illegal gifts, and honorarium
- Violations of education and elections code rules regarding electioneering (if campaign funds are again mentioned or requested, or if encourages voting for or against specific candidates)

In sum, as you are acting without Board authority, you are acting outside the scope and duties of board members. If any legal claims are raised against you for comments or assertions made in these forums, please be advised that you will not have any indemnification from the District, nor will you be covered by governmental immunity typically applicable to public servants. To the extent you disagree with your legal counsel's guidance on legality of the position of the District, the proper method is to discuss with the Board President and legal counsel, not encourage or participate in litigation against the District.

We ask that you take these concerns seriously.

Respectfully,
Jenny Wells
Interim General Counsel

Doug Poneck
Board Counsel for RRISD

Exhibit 3

Subject: Fwd: 14 Sep 2021 Legally Problematic Board Meeting
Date: Thu, 16 Sep 2021 10:52:54 -0500
From: Danielle Weston <danielle_weston@roundrockisd.org>
To: Danielle Weston <danielle_weston@roundrockisd.org>
Bcc: [REDACTED], Dustin Clark <[REDACTED]>, Glenda Mosley <[REDACTED]>, Anrij Brinson <[REDACTED]>, Jennifer Flok <[REDACTED]>, White <[REDACTED]>, Jennifer Chapman <[REDACTED]>, Michelle Evans <[REDACTED]>, Miranda Ziccardi <[REDACTED]>, Lauren Zagorski <[REDACTED]>, David Schmidt <[REDACTED]>, Marshall S <[REDACTED]>, Kieu Trang <[REDACTED]>, Mike Boudreaux <[REDACTED]>, Rebecca McCully <[REDACTED]>, Ben Rupp <[REDACTED]>, Denise Ray <[REDACTED]>, Stacey Lesieur <[REDACTED]>, Stacey Andrewartha <[REDACTED]>, Leslie Winters <[REDACTED]>, Matt and Tiffany Buss <[REDACTED]>, Stephanie Hughes <[REDACTED]>, Stephanie Hahn <[REDACTED]>, Angela Covelli <[REDACTED]>, "Wenneker, Vanessa" <[REDACTED]>, ryan christian <[REDACTED]>, "Shauna D. Kinningham" <[REDACTED]>, L Duarte <[REDACTED]>, Rob Leim <[REDACTED]>, Mark Braun <[REDACTED]>, Robin Perry Braun <[REDACTED]>, chris Irwin <[REDACTED]>, Erin <[REDACTED]>, Schmieding <[REDACTED]>, Jessica Pryor <[REDACTED]>, L Avila <[REDACTED]>, Krystal Poggio <[REDACTED]>, Arvind Kini <[REDACTED]>, Shelby Groff <[REDACTED]>, "Xenia & David DeVaney" <[REDACTED]>, Noel Hopeful <[REDACTED]>, Kristin Kepler <[REDACTED]>, Kristi Leigh <[REDACTED]>, Meghan Stack <[REDACTED]>, John Keagy <[REDACTED]>, Jeremy Story <[REDACTED]>, Aleecia Cardell Havard <[REDACTED]>, Matt Szekely <[REDACTED]>, Matt Fogle <[REDACTED]>, Matt Buss <[REDACTED]>, Jenny Norrell <[REDACTED]>, mike bennett <[REDACTED]>

Message-ID: <CAM7tBgT2Zz1TqYY10pbSq59=9BE+ICu_xLMA7KLz+gG5rvuYJQ@mail.gmail.com>
MD5: 58c0844577aceea88bae8fa90457d2fd

FYI. Don't reply. You are free to share/forward as you see fit.

----- Forwarded message -----

From: Danielle Weston <danielle_weston@roundrockisd.org>
Date: Thu, Sep 16, 2021 at 10:43 AM
Subject: 14 Sep 2021 Legally Problematic Board Meeting
To: Amy Weir <amy_weir@roundrockisd.org>, Hafedh Azaiez <hafedh_azaiez@roundrockisd.org>
Cc: Jim Williby <jim_williby2@roundrockisd.org>, Jeffrey Yarbrough <jeffrey_yarbrough@roundrockisd.org>, Cottrill, Jeffrey <jeffrey.cottrill@tea.texas.gov>, Mary Bone <mary_bone@roundrockisd.org>

The events of Tuesday night's (9/14) board meeting continue to haunt me as an American citizen. I have been a law-abiding citizen my entire life. I will not be complicit in Tuesday night's events.

All seven elected trustees are equals. The law does not allow any trustee to have any power as an individual trustee. Only as a body do we possess or exercise any power. The law is clear on that. Board officers do not enjoy any additional lawful powers than non-officer trustees.

Board President Amy Weir does not have law enforcement authority. She does not have the authority to determine whether a crime is being committed. She does not have the authority to direct a law enforcement officer to take any action under the authority he possesses as a LEO. LEO's alone are

charged with making decisions on enforcing the law. The only civilians empowered to direct law enforcement to do anything are judges. Even then, they cannot direct when, how or where their orders (such as an arrest warrant) will be executed.

If Amy Weir directs a LEO to "remove" a citizen from a meeting, physically prevent a citizen from entering our meeting or any other order, then I as a peer of hers, can just as easily direct the LEO to NOT "remove" a citizen. We are equals. Only if a LEO himself believes he is witnessing a CRIME occur can he take appropriate action to enforce the law. Not Amy Weir.

Good LEO's do not take orders on how to enforce the law from trustees. They do not bend to the orders of civilians.

The courts have ruled that a LEO placing his hands on a citizen have arrested that citizen. All arrests must generate an arrest report. LEO's know this. Since 1 Aug 2021, citizens have been forcibly removed from RRISD board meetings and on Tuesday night, RRISD PD LEO's put their hands on more than one citizen in preventing them from entering the board meeting.

I am hereby requesting a copy of all arrest reports from the RRISD PD documenting the arrests of citizens in RRISD board meetings from 1 Aug 2021 through 15 Sep 2021. Dr Azaiez- Please provide these reports to all trustees before the next board meeting which will be Saturday at 8:30 am. We need to see these reports. And we need to see if the reports reflect that the officers were taking orders from Amy Weir.

If arrest reports were not written, then we have an even bigger problem. If that's the case, we may have 1983 Civil Rights violations.

I believe that Amy Weir is blinded by political doctrine that has rendered her unable to operate within the confines of the law.

Danielle Weston
RRISD Trustee Place 7
618.670.4739

On Wed, Sep 15, 2021 at 6:55 PM Danielle Weston <danielle_weston@roundrockisd.org> wrote:

I have real concerns about the 14 Sep 2021 Regular Board Meeting. One of those concerns is about the agenda and the public being denied the opportunity to speak on item J1 (Mask Matrix).

I have watched the board meeting on-line twice now and this is what happened:

25:15 mark - Item D1 (public comments of agenda items E, F, G, H) appears to end

28:00 mark - Board Pres Weir announces both "adjourn" and "recess" with no notice of when to reconvene

30:40 - VP Feller motions to approve G1-5 (via consent passes 5-0) successful business conducted

33:40 - VP Feller motions to approve G6 (tax rate passes 4-1) successful business conducted

48:30 - We appear to be back to DI (public comments of agenda items E, F, G, H)

50:10 - Sec Harrison motions to nominate Mason Moses to WCAD board (passes 4-1) successful business conducted

51:50 - Weir "suggests that we postpone everything else in this meeting until Saturday"

"Everything else" appears to be Items I1 (public comments on agenda item J1) and J1 (Mask Matrix).

No vote or consideration of removing these items is discussed or voted on.

52:10 - Weir calls board into closed session and board successfully deliberates Items K1 & K2.

Why does the RRISD website currently state: Update: Due to public disruption at the September 14, 2021 regular meeting, item J on the September 14 agenda will be discussed at a future Board meeting.

This is a lie. There was no public disruption that prevented the board from addressing item J1 (mask matrix) as demonstrated by the board successfully accomplishing many other agenda items, passing a tax rate, taking action coming out of closed session, appointing a WCAD director, etc. Please remove this language from the RRISD website.

In addition, on 13 Sep 2021, I sent an email to Pres Weir and Dr Azaiez asking that Item J1 be removed from the 14 Sep 2021 agenda. Pres Weir replied, "This is a matter for the full Board to discuss tomorrow and it (J1 Mask Matrix) will not and cannot be removed from the agenda at this point in time with less than 72 hours before the meeting." This email exchange is subject to the PIA.

Please explain why you (Weir) unilaterally (with no vote by the board) removed items I1 and J1 from last night's agenda. Many parents showed up to speak on this J1 "Mask Matrix" and were left denied with their time wasted. How are you allowed to unilaterally deny them the opportunity to speak on an item listed on the agenda? Your own words to me in writing on 13 Sep 2021 clearly state that the J1 Mask Matrix WILL NOT AND CANNOT be removed from the agenda.

These questions have got to be answered to the board and the public before any future meeting on J1 can be held.

Danielle Weston